

Legalising the illegal: An assessment of the Dispensation of Zimbabweans Project (DZP) and Zimbabwe Special Dispensation Permit (ZSP) regularisation projects.

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COMPULSORY DECLARATION

This work has not been previously submitted in whole, or in part, for the award of any degree. It is my own work. Each significant contribution to, and quotation in, this dissertation from the work, or works, of other people has been attributed, and has been cited and referenced.

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List of Acronyms

ACMS	African Centre for Migration and Society
ANC	African National Congress
AU	African Union
CDE	Centre for Development and Enterprise
CoRMSA	Consortium for Refugees and Migrants in South Africa
DHA	Department of Home Affairs
DIRCO	Department of International Relations and Cooperation
DZP	Dispensation of Zimbabweans Project
FMSP	Forced Migration Studies Programme
IOM	International Organization for Migration
MDC	Movement for Democratic Change
PASSOP	People Against Suffering Oppression and Poverty
SADC	Southern African Development Community
SAIIA	South African Institute of International Affairs
SAPS	South African Police Service
UNHCR	United Nations High Commissioner for Refugees
VFS	Visa Facilitation Services
ZANU-PF	Zimbabwe African National Union- Patriotic Front
ZSP	Zimbabwe Special Dispensation Permit

Abstract

Since the late 1990s economic insecurity and political uncertainty have continued to worsen in Zimbabwe. Zimbabwe's economy plunged into deep crisis in the early 2000s owing to failed fiscal policies and the highly criticised 'Fast-track' land reform program. Election related violence between 2002 and 2013 resulted in a state of insecurity thereby leading to an exodus of Zimbabwean migrants. An unprecedented influx of Zimbabwean migrants to South Africa (SA) led to high levels of illegal migration and the clogging up of the asylum seeker management system in the early 2000s. In 2009, SA launched the Dispensation of Zimbabweans Project (DZP) in order to achieve four main objectives: to reduce pressure on the asylum management system, to curb the deportation of illegal Zimbabwean migrants, to regularise Zimbabweans who were residing in SA illegally and to provide amnesty to Zimbabweans who had obtained South African documents fraudulently. The DZP was considered a success and a successor permit, the Zimbabwe Special Dispensation Permit (ZSP), was launched in 2014 to allow former DZP applicants to extend their stay in South Africa. Using government publications, parliamentary debates, non-governmental organization (NGO) and media reports it was found that the DZP reduced pressure on the asylum seeker management system while deportation figures dropped significantly. It was also found that, less than 6% (250 000) of an estimated 1,5 million undocumented migrants were documented during the regularisation processes. The DZP and ZSP projects complemented South Africa's highly restrictive approach to migration management and jealous safeguarding of access to permanent residence and citizenship. The regularisation projects also enabled the South African government to show sympathy towards Zimbabweans who were forced to migrate to South Africa by recognising that they could not return home as long as the situation back home remained unchanged.

Key words: undocumented migrants, illegal migrants, regularisation, international migration, Zimbabweans, South Africa.

1. Chapter 1: Introduction

1.1 International migration and the need for regularisation

1.1.1 International migration

International migration is the movement of people from their countries of origin or habitual residence to settle temporarily or permanently in another country (Bariagaber, 2014: 2). International migration is characterised by the movement of both, documented (legal) and undocumented (illegal) migrants. In South Africa, the legal status of migrants depends on whether or not they are in possession of visas or permits which prove that they are legally permitted to be in the country. Documented migrants in South Africa are migrants who are holders of some form of permit which allows them to reside, work or study in South Africa. Refugee permits, work permits, study permits, visitor's visas, relative's visas and spousal permits are examples of permits and visas which South Africa's Department of Home affairs (DHA) can issue to foreign nationals (Department of Home Affairs [DHA], n.d). There are two types of illegal migrants: those who enter the country legally and then contravene the legal terms of their permits and those who enter and stay in the country illegally (Dodson & Crush, 2015: 3). International migration is caused by multiple economic, political, socio-cultural and demographic factors (Akopari, 1999: 77; Bariagaber, 2014: 2). Furthermore, migration flows tend to be mixed because human movement can be influenced by more than one push or pull factors.

1.1.2 Economic versus Humanitarian migration

Economic migration and humanitarian migration are two common types of international migration. Economic migration is the movement of persons based on perceived economic advantages (work or business opportunities) in the receiving country (Kok, Gelderblom & Van Zyl, 2006: 5). Dominant economic theories of international migration such as the push-pull theory and the neo-classical equilibrium theory define migration as "primarily a function of economic differences between the place of migrants' origin and the country of destination" (Bariagaber, 2014: 6). The push-pull theory is migrant-centred in that it focuses on explaining how individuals, as rational actors, decide to migrate if there are perceived economic gains in

the country of destination. The neo-classical equilibrium theory however views international migration as a win-win-win situation. This is so because: (1) migrants benefit by gaining expected high earnings in the country of destination, (2) their country of origin experiences lower unemployment rates and shortage of household incomes and (3) the country of destination gains more human capital, particularly in sectors where most of the local population has no desire to work in (Bariagaber, 2014: 7). The neo-classical equilibrium theory corresponds with the migration of most Zimbabweans since the early 1990s. The win-win-win situation in this case has been achieved because: (1) Zimbabwean migrants gain financial stability and better livelihoods when they migrate to better economies, (2) Zimbabwe benefits from migrants' remittances and (3) receiving countries such as South Africa gain more human capital in multiple sectors of the economy.

Humanitarian migration is often associated with persons fleeing persecution and conflict situations. Humanitarian migrants move from their countries of origin or habitual residence to more peaceful geographical contexts where threats (migration push factors) are lesser or non-existent. Unlike economic migrants who make the "rational choice" to migrate for economic benefits, asylum seekers and refugees are considered to be "reluctant migrants" who have to migrate because of security reasons (Kok, Gelderblom & Van Zyl, 2006: 7). In 1998, the parliament of South Africa passed the Refugees Act (Act No. 135 of 1998) as a way of formally ensuring adherence to the United Nations High Commissioner for Refugees (UNHCR) international principles and standards relating to asylum seekers and refugees. The Act acknowledges refugees as "persons who have fled from their home country or place of habitual residence owing to a well-founded fear of persecution for reasons relating to their tribe, race, religion, nationality, political opinion or membership in a particular social group" (Africa Check, 2013).

South Africa remains committed to providing for the "reception of asylum seekers into the country, regulating applications, recognising refugee status and providing for the rights and obligations following from such" (Wentzel & Tlabela, 2006: 81). However, South Africa continues to battle with administrative problems regarding the processing of asylum claims. A 2016 Africa Check report on asylum seekers in South Africa revealed that "South Africa is home to the highest number of unresolved asylum claims in the world" (Stupart, 2016). Since 1994, South Africa has received most of its humanitarian migrants from Somalia, the Democratic Republic of Congo (DRC), Angola, Mozambique and Zimbabwe. According to

Dodson and Crush (2015: 3), migration is characterised by varying temporalities (short to long term stays in host countries). The demographics of asylum and refugee applicants are often determined by the period of time and the political circumstances in each country. After the end of civil conflict in Angola and Mozambique for example, fewer asylum applications were made by nationals from these two countries (Wentzel & Tlabela, 2006: 80). In the case of continued crisis or uncertainty, persons from countries such as the DRC, Zimbabwe and Somalia continue to migrate to South Africa and stay for indefinite periods owing to situations of persistent crisis.

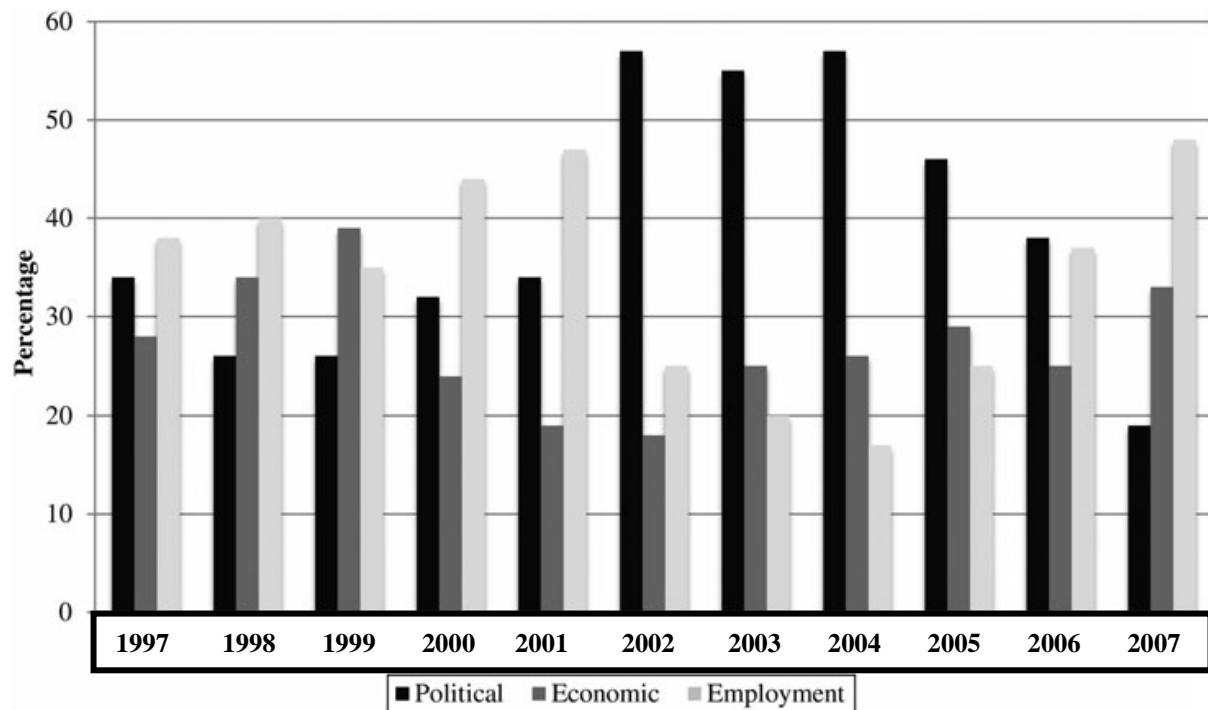
1.1.3 The big debate: Voluntary versus Forced migration

Based on the definitions of humanitarian and economic migration in the foregoing section it is evident that migration is commonly perceived as either voluntary or forced. Voluntary migration is mostly associated with economic migrants' ability to make the rational choice to move from their countries of origin to seek better income generating opportunities and a better quality of life. Forced migration is commonly associated with the impacts of war, persecution on the grounds of one's religion, ethnicity or political ideology and natural disasters such as drought.

In the early 2000s an exodus of migrants from Zimbabwe was caused by political and economic factors. However, whether Zimbabwean migrants could be defined as voluntary or forced migrants became a controversial subject for debate in the media, amongst politicians, civil society actors and in academic spaces. Since the late 1990s, most Zimbabweans have been forced to leave their home country owing to the decline of the country's economy (Tati, 2008: 428). The collapse of Zimbabwe's economy was linked to failed economic policies and a fast tracked land reform programme which crippled the country's farming industry. The exodus of Zimbabwean migrants is definitely a response to push factors such as high levels of unemployment and low household incomes and the pull factor of paid work opportunities in South Africa. Some Zimbabweans have cited political violence as a major factor which pushed them to migrate. Between 2000 and 2013 episodes of election related violence occurred in 2002, 2008 and 2013 and cases of government sponsored violent attacks, abductions and torture are not uncommon in Zimbabwe.

Figure 1 below shows the three main reasons which were cited by Zimbabwean migrants between 1997 and 2007.

Figure 1: Main reason(s) for leaving Zimbabwe by year of departure.



Source: (Crush, Chikanda & Tawodzera, 2015: 370)

The economic crisis and employment opportunities were cited as major migration push factors between 1997 and 2001. From 2002 to 2004 political reasons were the primary push factor for migration. Overall, Figure 1 shows us that Zimbabwe is a source of mixed migration flows. The term ‘mixed migration flows’ within the context of this dissertation refers to the single migration stream of economic and political migrants. According to Crush, Chikanda and Tawodzera (2015: 363) “the term mixed migration is often used in government and refugee protection circles to suggest that it is difficult to distinguish between refugees and economic migrants within a single migration stream and to craft different policy responses for each”. Since the late 1990s, Zimbabwe has become an “archetypal source of mixed migration owing to the country’s protracted economic and political crises which have generated increasingly heterogeneous forms of migration” (Crush, Chikanda and Tawodzera, 2015: 364).

South Africa is believed to be the largest recipient of Zimbabwean migrants since the early

2000s (Yoyo, 2014). By 2007 the unprecedented flow of migrants from Zimbabwe was defined as “the most extraordinary exodus from a country not at war” (Meldrum, 2007). It is the very nature of this recent wave of migration that led to the creation of a special permit for Zimbabweans by South Africa’s Department of Home Affairs (DHA). A special permit process was required because the regular permit categories which were available for either economic migrants or for humanitarian migrants were inadequate and inappropriate. On the one hand, the asylum seeker management system could not grant asylum or refugee status to many Zimbabweans as most of them were not perceived to be fleeing from armed conflict or political persecution. At the same time, most of the migrants did not qualify for regular work and business permits.

1.1.4 Why regularisation is important

In order to manage the problems associated with undocumented or illegal migrants, countries in Europe and the Americas occasionally implement amnesty or documentation programs. Spain, Italy, Canada and the United Kingdom, for example, have in the past resorted to granting legal status to illegal migrants as means of regularising their stay. Regularisation is an alternative to migration management strategies such as mass deportations, which often do not deter illegal migration. Between 1996 and 2000 the South African government approved three immigration amnesty programmes which were aimed at granting permanent residence status to three categories of undocumented migrants: contract mine workers who had been in South Africa for at least 10 years before 1995, undocumented migrants from Southern African Development Community (SADC) member states who had entered the country clandestinely during the apartheid period and former Mozambican refugees who entered South Africa before 1992 (Crush & Williams, 1999: 7; Peberdy, 2001: 20).

Regularisation programmes are created in order to document illegal migrants and to offer them an opportunity to formalise their stay in the host country while also giving them the legal right to access citizen privileges such as education and health facilities, housing, employment opportunities, business permits and social services (Bansak, 2016: 1). Regularisation drives also allow host countries to collect more reliable statistics of foreign nationals residing in their countries (Polzer, 2009: 3). Such information is vital for policy planning especially when it comes to the delivery of public services such as housing,

education and health.

Section 31(2) of the South African Immigration Act 13 of 2002 indicates that:

*“Upon application, the Minister of Home Affairs may under terms and conditions determined by him: grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when **special circumstances** exist which should justify such a decision. Provided the Minister may (i) exclude one or more identified foreigners from such categories (ii) or with good cause, withdraw such rights from a foreigner or a category of foreigners”* (Immigration Act, No. 13 of 2002, 2002: s31(2); South African Government, 2014a).

It is according to this Act that the Department of Home Affairs (DHA) has been able to create special permit projects to allow undocumented Zimbabweans to legalise and regularise their stay in South Africa over the past 7 years. Recognising the economic malaise and political instability that had led many Zimbabweans to migrate to other countries in the early 2000s, the South African government approved the DHA's proposals to offer undocumented Zimbabweans the opportunity to apply for a 4 year (2010-2014) Dispensation of Zimbabweans Project (DZP) permit and subsequently the 3 year (2015-2017) Zimbabwe Special Dispensation Permit-ZSP (Pokroy-Rietveld, 2014: 44).

This dissertation is based on an atheoretical desktop research study of the Dispensation of Zimbabweans Project (DZP) and Zimbabwe Special Dispensation Permit (ZSP) regularisation projects. The DZP and ZSP projects were created in response to the influx of undocumented Zimbabwean immigrants and the increase in pressure on the asylum application system which resulted from the influx (Amit, 2011: 4; Parliamentary Monitoring Group [PMG], 2011). The decision to offer amnesty to illegal Zimbabwean migrants was also influenced by the need to retrieve fraudulent South African documents from illegal Zimbabweans nationals (South African Government, 2014a). Furthermore, deportations and detention efforts seemed to be ineffective methods of deterring illegal migration and illegal stays since many of the undocumented Zimbabweans were fleeing from harsh economic conditions to secure better livelihoods in South Africa. In July 2007, it was reported that deporting Zimbabweans had become an ineffective strategy of curbing illegal migration from Zimbabwe since most deportees ended up resurfacing in the country a few days or months

after being deported (Meldrum, 2007). South Africa was and remains a destination of choice for most Zimbabwean migrants because of its large economy and geographical proximity (Lawyers for Human Rights [LHR], 2011).

Immigrant centred policies such as regularisation are important and necessary. In the case of the unprecedented and complex nature of migration from Zimbabwe post 2000, it was not possible for the DHA to apply existing migration management strategies such as regular permit and asylum seeker application processes. Furthermore, hunting down illegal migrants and deporting them was not the best way of managing immigrants who were forced to migrate since staying at home was not an option for many Zimbabweans at that time. Similar to other migration policies, issues of fairness make regularisation “a contentious tool for dealing with undocumented migrants” (Bansak, 2016: 1). Researchers and analysts therefore need to assess such policies as a means of ascertaining how such programmes can be better implemented to benefit both, undocumented migrants and the host country.

1.2 Background information

1.2.1 What led to the unprecedented exodus of Zimbabwean migrants?

The exodus of migrants leaving Zimbabwe for South Africa and other countries began in the late 1990s when Zimbabwe's economic situation began to deteriorate drastically. Following the declaration of independence from British colonial rule in 1980, Zimbabwe's economic growth was negatively affected by recurring episodes of drought. In the early 1990s Zimbabwean policy makers sought to liberalise the country's economy through “the Economic Structural Adjustment Program (ESAP), which allowed for an open market economy driven by a strong export base” (Munangagwa, 2009: 111). The ESAP macroeconomic policy was also aimed at achieving economic recovery and sustained growth but it failed to do so because liberalization exposed the country's industries to “foreign competition for which it was unprepared” (Munangagwa, 2009: 112). The next economic recovery attempt which was called Zimbabwe Program for Economic and Social Transformation (ZIMPREST) also failed to save the Zimbabwean economy between 1996 and 2000.

Owing to poor fiscal policies Zimbabwe's budget deficit continued to grow. Economic decline

began to visibly take place following the crash of the stock market on November 14, 1997. In the year 2000, a 'Fast track' land reform program was authorised by President Robert Mugabe to facilitate land redistribution from white farmers to the majority black populace (Munangagwa, 2011: 115). White commercial farmers' farms were taken by force and many of them were given short notices to evacuate their farms. The land reform program further exacerbated conditions in an already ailing agricultural industry. The fast tracked change of land ownership from thousands of white commercial farmers to small-scale black farmers and inexperienced/unskilled farmers led to low productivity. Since commercial farming was at the time, the largest contributor to Zimbabwe's national income, low production levels led to the collapse of the commercial farming and manufacturing sectors, the consequent displacement of millions of workers, food shortages and the collapse of the Zimbabwean economy ("Fast track land...", 2016).

Many Zimbabweans who migrated to South Africa after 1999 fled the economic crisis and episodes of election related political violence which occurred during the 2002 and 2008 presidential elections. Some of them did not have enough financial resources or time to apply for passports and permits which would guarantee them legal entry and the opportunity to reside legally in South Africa. Over the past few years, Zimbabwe has not fully recovered from economic turmoil and economic resuscitation is unexpected in the near future. Based on recent nationwide protests and the 2016 #ThisFlag anti-government movement it is evident that Zimbabwe has not yet achieved the much needed economic and political recovery to promote the return of those who have left the country. If the situation worsens another influx of Zimbabwean migrants can be expected in the near future.

South Africa is one of Africa's largest economies thus it attracts migrants from many African countries. In the southern African region, South Africa, Botswana and Namibia's economic buoyancy has attracted many migrants from other parts of southern Africa (Oucho, 2006: 67). Since the early 2000s, it is believed that the majority of the migrant population (both documented and undocumented) in South Africa is from Zimbabwe. According to the Consortium for Refugees and Migrants (CoRMSA) as at 2010, the estimated number of Zimbabweans living in South Africa, most of them illegally, was about three million (Yoyo, 2014). As a result of South Africa's attractiveness to all types of migrants the Department of Home Affairs (DHA) has struggled to control growing migration flows and undocumented migrants.

1.2.2 Policy responses to the influx of Zimbabwean migrants in South Africa

Between 20 September 2009 and 31 December 2010, the DHA carried out a documentation and regularisation drive for Zimbabwean immigrants under the Dispensation of Zimbabweans Project-DZP (Amit, 2011: 4). The DZP was aimed at regularising the status of Zimbabwean migrants and allow them to live, work and study in South Africa. The DZP was also aimed at relieving pressure on the asylum system which most Zimbabweans had turned to as a means of attaining legal status in South Africa upon fleeing the political and economic crisis back home. Upon expiry of the DZP permits on 31 December 2014 a new regularisation process was initiated to allow DZP permit holders to renew their permits. In August 2014, Mr Malusi Gigaba, who was then Minister of Home Affairs, announced that a new permit (the Zimbabwe Special Dispensation Permit [ZSP]) had been created in order to allow former DZP applicants to extend their stay in South Africa without having to return to Zimbabwe (Chiumia & Van Wyk, 2014). ZSP permits are scheduled to expire on 31 December 2017 after which ZSP permit holders have to return to Zimbabwe to apply for regular South African work, study or business permits if they wish to continue staying in South Africa.

Former DZP and ZSP holders will not be allowed to apply for permanent residence status regardless of them having stayed in South Africa for over 5 years (minimum number of years of stay in South Africa required for permanent residence applications). According to Minister Gigaba, the ZSP was issued as a special permit with special conditions thus if ZSP permit holders want to make themselves eligible for permanent residency “they need to migrate to the regular permit system, and on that basis, after 5 years they can then apply for permanent residency” (Gigaba, 2016 [video file]).

The DZP and ZSP have been hailed as successful regularisation attempts by the DHA but some analysts argue that both processes were accompanied by administrative barriers which excluded large numbers of undocumented Zimbabwean migrants, especially those who did not have proof of work, admission to an educational institution or proof of business ownership. As a result of this, very little pressure was relieved from the asylum application system and many Zimbabwean immigrants have continued to stay in South Africa illegally since they failed to obtain the special permits. Out of approximately 295 000 applications about 245 000 DZP

permits were issued in 2010 (Pokroy-Rietveld, 2014: 44). According to the Consortium for Refugees and Migrants (CORMSA) as at 2010, the estimated number of Zimbabweans living in South Africa, most of them illegally, was about three million but less than a tenth (300, 000) of this estimate applied for the special permits (Yoyo, 2014). This therefore means that, less than a tenth of the estimated number of Zimbabweans residing in South Africa were able to apply for or obtain the DZP permits.

According to Bertossi (2009: 27) regularisation implies a migration cost for receiving societies because it is a possible pull-factor for illegal migrants. Bertossi's supposition implies that regularisation processes such as the DZP and ZSP may encourage more Zimbabweans to flock to South Africa with the hope of being regularised through special permit processes. However, regularisation prevents undocumented migrants from suffering negative implications of illegality such as individuals and their families suffering from socio-economic vulnerability when they are unable to secure employment, school places and business permits. Regularisation processes are important because by legalising the stay of undocumented migrants, host countries are able to reduce the risks of workplace exploitation and promote the protection of migrants under the local laws (Bansak, 2016: 1). Furthermore, legalising undocumented migrants increases tax revenues for the host country and it allows immigrants to be able to work, study or run businesses and cater for their personal and family financial needs without putting pressure on the social service system of the host country (Bansak, 2016: 1). In the case of the DZP and ZSP, both processes allowed formerly undocumented Zimbabwean migrants to work, study, run business and cater for their personal and family needs without adding a lot of pressure on South Africa's social services and social grants.

1.3 Statement of problem and rationale

Migration management is a challenge across the world and countries like South Africa (a regional economic power) which receive large numbers of immigrants need to constantly redevelop and improve their migration policies in order to cater for different categories of migrants. According to the Department of Home Affairs, the DZP and ZSP projects worked effectively and a project similar in nature to the ZSP was created for Lesotho nationals who had been residing in South Africa illegally before 30 September 2015 (DHA, 2016a). "The

Lesotho Special Permit (LSP) was undertaken as a joint programme with the cooperation of the South African and Lesotho governments and it is expected to benefit over 400,000 Lesotho nationals” (DHA, 2016a). The DZP process was based on bilateral cooperation between South Africa’s Department of Home Affairs and Zimbabwe’s Ministry of Home Affairs. Despite the DHA’s satisfaction with the dispensation processes as an effective way of dealing with the migration management problems which arose from the influx of undocumented Zimbabwean immigrants post 2000, there are no reliable statistics on undocumented migration due to historical underreporting and the South African government’s tendency to exaggerate immigration numbers to justify more restrictions (Africa Check, 2013; Stupart, 2016).

Moving forward, the DHA seeks to ensure that South Africa creates a “modern, progressive and robust policy on international migration which will take into account the enormous current and potential contribution of immigrants to South Africa, and to improve South Africa’s connectedness with the rest of the world, while minimizing associated risks and protecting national interests” (DHA, 2015a). While pursuing these interests it is in South Africa’s best interests to continue looking into Zimbabwean-specific migration management processes considering the reality that Zimbabweans make up the majority of South Africa’s immigrant population and the push and pull factors which influence the migration of Zimbabweans to South Africa persist. Deportations and stricter regulations may serve as discouraging factors but it is also a reality that immigrants continue to negotiate various loopholes, some dangerous and life threatening to enter and stay in South Africa. Research has revealed that borders and tight border control systems do not present any real obstacle to persons who want to move into South Africa (Wentzel & Tlabela, 2006: 79).

Research questions and propositions

Having established that regularisation is an ideal migration management tool which the DHA has acknowledged can be “effective”, it is important to assess the regularisation attempts which the DHA has established in the recent past. Should further regularisation projects be found feasible, an assessment of former regularisation policies such as the DZP and ZSP is required. The assessment of the DZP and ZSP regularisation processes in this dissertation is based on the following questions:

1. In what way(s) did the DZP and ZSP contribute to the management of undocumented Zimbabwean migrants in South Africa?
2. What were the benefits and challenges associated with the implementation of the DZP and ZSP regularisation projects?

The aforementioned research questions were influenced by the researcher's proposition that the DZP and ZSP regularisation processes did not adequately address the problems associated with the influx of undocumented Zimbabwean immigrants. This proposition is based on two key factors.

1. Temporary solution

Given that the economic conditions which forced many Zimbabweans to migrate to South Africa have not changed for the better, most ZSP holders are unlikely to willingly return to Zimbabwe to apply for regular permits. Zimbabweans continue to make up the largest number of undocumented migrants and the situation in Zimbabwe is unlikely to improve in the near future therefore Zimbabwean immigrants remain a special category of immigrants that cannot be easily ignored in future policy making processes. An assessment of the DZP and ZSP projects is therefore required in order to inform future special dispensation projects.

2. The DZP and ZSP projects were open to a select few

Firstly, of the estimated three million Zimbabwean immigrants, less than 300, 000 applied for the DZP permits thus less than a tenth of the estimated population were able to regularise their stay in South Africa. Despite the probability that the 3 million estimation was an incorrect figure many undocumented Zimbabweans were excluded from DZP and ZSP application processes because they were not in possession of either one or two of the primary requirements (a valid Zimbabwean passport and/or proof of work, study or business operations). Like most migration management tools, the DZP and ZSP permit application processes were only open to undocumented migrants who had the privileges of employment, business ownership and places at academic institutions.

Secondly, the DHA did not pay attention to the gendered nature of access to formal sector

employment thereby discriminating against undocumented Zimbabwean female migrants who are involved in informal sector jobs such as housekeeping and child care services. Research has shown that, female migrants have historically travelled to work in South Africa without obtaining official permission (Wentzel & Tlabela, 2006: 79). Between 1997 and 2010 the percentage of Zimbabwean female migrants rose from 39% to 44% and it can be expected to be as high as 48% by the end of 2017 (Crush, Chikanda & Tawodzera, 2015: 368). Given this, it is important to ensure that migration management strategies pay attention to the gendered dynamics of migration and female migrants' survival strategies.

Thirdly, only DZP holders were allowed to apply for the ZSP permits in 2014 thus no new special permit application processes were created to facilitate the documentation of more Zimbabweans regardless of the reality that very few undocumented migrants were assisted in the 2009/2010 DZP project. Even though the DHA acknowledged that the DZP worked well, the South African government had no intentions to give amnesty to more Zimbabweans after 2010.

1.4 Purpose of the research study

The aim of this dissertation is to assess the extent to which the DHA managed to achieve the goals it sought to achieve by means of creating special permit projects for undocumented Zimbabweans. The successes and failures resulting from the two processes will be assessed as a means of deriving important lessons from the two regularisation projects. This research study is important for four reasons:

1. Academic research development

Very few studies have been conducted on the DZP and ZSP regularisation processes. Most of the research on immigration in South Africa looks at xenophobia and migrants' survival strategies. Available research on the DZP and ZSP has been done by the African Centre for Migration and Society (ACMS), the Consortium for Refugees and Migrants (CoRMSA), Africa Check and the Forced Migration Studies Programme (FMSP). This dissertation contributes to existing knowledge regarding the DZP and ZSP regularisation processes. International migration has over the years become an important academic area of study as the trends and effects of international migration continue to pose stiff challenges to policy changes

in Africa and elsewhere around the world thus it is a relevant and contemporary issue to study (Bariagaber, 2014: 3). This is especially true in the case of South Africa which is at present, one of the largest recipients of migrants in Africa (Tati, 2008: 423; Africa Check, 2013).

2. Policy-relevance

The dissertation seeks to address the problem of inadequate existing national migration instruments especially with regards to the management of economic migrants and mixed migration flows. As indicated earlier, ‘mixed migration flows’ within the context of this dissertation refers to the single migration stream of economic and political migrants from Zimbabwe since the early 2000s. According to the Forced Migration Studies Programme (FMSP), SADC countries are not capacitated to deal with the scale and flows of migration such as those originating from the exodus of Zimbabwean migrants in recent years, thus a study of South Africa's DZP and ZSP regularisation processes is an important way of seeking solutions to the migration challenges which are currently being faced by South Africa and her neighbours (Kiwanuka & Monson, 2009: 6).

3. Human rights concerns

International migration in general, is on the rise and some migration specialists believe that is unlikely to slow down in the near future (Bariagaber, 2014: 17). South Africa is home to over 3 million of the world's 244 million international migrants (Kirk, 2016). As a recipient of large volumes of mixed migration flows South Africa has to pay attention to the human rights of humanitarian, economic and survival migrants alike. Mixed migration flows such as the exodus of Zimbabwean migrants post 2000 are a key area of focus which South Africa needs to look at through a humanitarian lens.

4. Administrative efficiency

This study is relevant because it assesses the practice of outsourcing permit processing services from Visa Facilitation Services (VFS) during the ZSP process in 2014. The DZP project was implemented via the traditional permit application system of using Home Affairs offices as sites for permit application submissions, processing and permit collections. Since 2014 visa applications are now being submitted to Visa Facilitation Services (VFS) centres

across the country. The DHA continues to adjudicate permit applications and the collection of permit application outcomes is facilitated by VFS. The 2014 ZSP regularisation process was implemented using the new VFS-DHA system. This research study compares the administrative efficiency of the DZP and ZSP processes in Chapter five in order to establish whether administrative inefficiency and other bureaucratic shortfalls were curtailed by means of outsourcing VFS services. It is also important to assess the VFS facilitated ZSP process since it will be utilised for future visa processes which may include, special dispensation permit projects such as the Dispensation of Zimbabweans Project (DZP), the Zimbabwe Special Dispensation Permit (ZSP) and the Lesotho Special Permit (LSP).

1.5 Methodology

This research study is based on a desktop study of journal articles, organisation reports, government publications and academic papers which look at the Dispensation of Zimbabweans Project (DZP) and Zimbabwe Special Dispensation Permit (ZSP) regularisation policies. News articles and Parliamentary Monitoring Group (PMG) reports were also considered in order to assess reports and updates on the regularisation processes between 2010 and 2016.

1.6 Limitations

In-depth interviews could have been utilised as a complementary research tool for the proposed research but owing to time and financial constraints the researcher was unfortunately unable to conduct in-depth interviews. It takes time to schedule appointments and interviews with government officials thus the researcher recommends the use of interview methods in future long-term studies.

1.7 Chapter outline

The first chapter outlined the background information regarding international migration, regularisation and the factors which led the DHA to implement the DZP and ZSP regularisation projects. Chapter two provides a literature review of journal articles, reports and book chapters which discuss South Africa's migration management strategies since 1994.

The literature review section will also discuss the historical relationship between South Africa and Zimbabwe and how this relationship influenced South Africa's decision to implement the DZP and ZSP projects. The third chapter provides an in-depth assessment of the DZP project. The fourth chapter provides an assessment of the 2014 ZSP process. Both chapter three and four outline the strengths and weaknesses of DZP and ZSP regularisation projects respectively. Chapter five will provide an overall assessment of the benefits and shortfalls of the DZP and ZSP projects and make recommendations for future regularisation process.

2. Chapter 2: Literature review

2.1 Zimbabwe-South Africa relations

Zimbabwe and South Africa enjoy a special relationship born of geographical contiguity, economic interdependence, shared political interests and historical ties between the South Africa's African National Congress (ANC) and the Zimbabwe African National Union-Patriotic Front (ZANU PF) ruling parties (Mlambo, 2016: 20). Geographically, Zimbabwe sits at the north of South Africa. Economically, Zimbabwe provides a road transport route for businesses and traders to countries such as Mozambique, Zambia, Malawi, Tanzania and the Democratic Republic of Congo. In addition to this, South Africa and Zimbabwe have been each other's largest trading partners since the late 1800s (Mlambo, 2016: 22). At the moment, South Africa gains a lot from exporting goods and manufactured products to Zimbabwe. South African businesses also gain profits from Zimbabwean migrants who buy groceries for their families back home. Both countries have a shared history of liberation struggles as they defended each other in the fight to end colonialism. Furthermore, the ANC is indebted to the ZANU-PF and other African liberation movements for the support which it received during the anti-apartheid struggle (Prys, 2008: 18; Hengari, 2014: 15). "The ANC's history of struggle and liberation is strongly embedded in an anti-colonialist liberation tradition in Southern Africa" (Hengari, 2014: 14). In terms of political interests "there is a shared sense of irritation regarding the condescending attitudes of Western leaders towards African countries and their tendency to lecture African states on how democracy, good governance and fiscal policies should be run" (Prys, 2008: 16; Mlambo, 2016: 29).

Owing to the aforementioned geographical, economic, historical and political factors it is evident that South Africa's silence when the Mugabe regime initiated the farm take overs in 2000 and South Africa's endorsement of flawed Zimbabwean presidential elections in 2008 and 2013 could have been influenced by the special relationship between the two countries' ruling parties. Instead of publicly condemning political violence and criticising the Zimbabwean government, former South African President, Thabo Mbeki, repeatedly pointed out that Zimbabwe was a sovereign state. He defended South Africa's quiet diplomacy by arguing that there was no viable alternative to South Africa's supposed disappointing response because, "by its very nature, diplomacy precludes loud pronouncements from roof

tops” (Mlambo, 2016: 28). In 2007, Thabo Mbeki avoided describing Zimbabwe’s situation as a refugee creating situation. Rather, he simply conceded that the enormous human influx from Zimbabwe was a reality which South Africans had to live with (Meldrum, 2007).

Since 2008, South Africa’s policy towards Zimbabwe, in the context of Zimbabwe’s multi-layered crisis has been criticised for being ineffectual, disappointing and inappropriate quiet diplomacy (Mlambo, 2016: 19). South Africa’s perceived role as a regional economic and political power has been framed as a strength which the South African government can utilise in order to coerce President Mugabe and his government to practice good governance and work towards processes of economic recovery. Even though South Africa is an economic power in the southern African region and on the African continent it cannot and it has not exercised a high level of political influence over Zimbabwe. Furthermore, President Mugabe’s age and untouchable status as an African liberation hero make it difficult for fellow African leaders to challenge or question him (Prys, 2008: 14).

In 2009 South Africa was appointed to mediate the political deadlock between ZANU-PF and major opposition parties. Thabo Mbeki, who was the South African president at the time initiated talks to facilitate the creation of a Government of National Unity (GNU) - an interparty political power sharing agreement between the ZANU-PF and two formations of the Movement for Democratic Change (MDC) (Matyszak & Reeler, 2011: 2). There were general assumptions that “South Africa could use its power and influence to compel President Mugabe’s regime to the toe line” but this was not the case (Mlambo, 2016: 29). The Global Political Agreement (GPA) was not fully adhered to and the reforms which were agreed upon during the negotiations were not implemented.

With regards to the influx of Zimbabwean migrants to South Africa, even though the South African government was aware of the issues which had influenced the exodus of migrants in the early 2000s it did not publicly condemn the Zimbabwean government for failing to resolve Zimbabwe’s political and economic challenges. Furthermore, by endorsing the questionable elections which President Mugabe and his party had won under unfair conditions South Africa dodged the burden that it would have had to bear if the political climate in Zimbabwe had been declared as dangerous. Declaring a political crisis in Zimbabwe would justify the migration of Zimbabweans and Zimbabweans’ applications for

asylum and refugee status in South Africa. According to the United Nations High Commissioner for Refugees (UNHCR) “refugees include persons fleeing from armed conflict or political persecution” (Edwards, 2016). By declaring that Zimbabwe was not in a deep political crisis South Africa could therefore continue dismissing undocumented Zimbabwean migrants as not worthy to apply for asylum since they were not fleeing from any kind of persecution.

According to Prys (2008: 17), South Africa cannot afford to be aggressive towards Zimbabwe thus adopting a strategy of denial is the best option for South Africa to take when it comes to responding to Zimbabwe’s political and economic problems. However, the numbers of Zimbabwean migrants multiplied in the early 2000s. Legal entries alone rose from about 500 000 per year in 2000 to 1 million in 2006 and about 1,5 million by 2010 (Crush, Chikanda & Tawodzera, 2015: 366). Undocumented migration became a major problem which the Department of Home Affairs could not ignore especially following outbreaks of xenophobic violence in South Africa. Arrests and deportations were unfruitful because many deportees returned to South Africa since the situation in Zimbabwe was not improving. Deportations have been very costly for the DHA and reports showed that at some point “the budget for the deportation of foreign nationals was exhausted resulting in challenges relating to transfers of deportees and deportations from Lindela repatriation centre” (DHA, 2015b: 82).

It is evident that it is difficult to imagine a situation whereby Zimbabwe would heed to South Africa’s advice thus continued quiet diplomacy seems to be the best and only way of responding to the Zimbabwean situation. The geographical, economic, historical and political realities which shape Zimbabwe-South Africa relations make it complex and dangerous for South Africa to criticise the Zimbabwean government or to denounce political violence and claims that the country is peaceful. It can be argued that, due to its economic decline, Zimbabwe is increasingly in less and less of a position to reject proposals from South Africa. However, South African leaders need to tread carefully in order to avoid implementing drastic foreign policies towards their neighbour. For example, military action or supporting opposition and anti-government forces may lead to a major crisis which will have grave spill over effects because of the geographical links between the two countries (Prys, 2008: 19). Creating barriers such as closing the borders and imposing economic and trade related

sanctions against Zimbabwe would hurt Zimbabwe and also impair South Africa's economy because Zimbabwe provides South Africa with trade routes to other countries and it is South Africa's largest trading partner.

2.2 Migration management in South Africa

2.2.1 The role of the Department of Home Affairs (DHA)

According to the South African Government (2016), the Department of Home Affairs (DHA) is responsible for facilitating the documentation of citizens, asylum seekers, refugees, tourists and 'acceptable' foreign nationals. The DHA is responsible for the "effective, secure and humane management of immigration" as well as providing services which are "accessible, efficient and corruption free" (South African Government, 2016). It is against this backdrop of values that the DHA strives to fulfil its mandate when it comes to migration management.

In terms of providing accessible services, the South African government has ensured that each province has Home Affairs offices and Visa Facilitation Centres to cater for citizens and foreign nationals. In terms of efficiency it is important for the DHA to ensure that service delivery is timeous in order to allow migrants to be processed and documented within a short period of time. Efficiency has not been achieved in many aspects and it is a value which is not easy to measure. For the purposes of this dissertation one can look at efficiency as an important value in terms of fast processing of permit applications. Furthermore, efficiency is also linked to the DHA's ability reach out to as many applicants as possible depending on projected targets, in terms of the estimated numbers of undocumented Zimbabwean migrants residing in South Africa during the announcement of special permit projects.

Corruption free services are an ideal which any government department should strive to achieve. Corruption impairs service delivery when some applicants are unfairly excluded because they cannot pay bribes to obtain permits while those who have the means to bribe officials have an unfair advantage. The implementation of electronic visa application systems and the handling of permit application submissions by the Visa Facilitation Services (VFS) since 2014 has addressed this issue to some extent. However, corruption remains a challenge for the DHA (DHA, 2015b: 94).

Security is an important state value and in the case of South Africa, security has been taken to mean that the government has the mandate to “ensure the safety and security of its citizens, their children and all legitimate visitors” (Parliament of the Republic of South Africa. [Portfolio Committee of Home Affairs], (2014a). The Portfolio Committee of Home Affairs continues to reiterate the need to ensure that the “permeable nature of the country is resolved” and that challenges which are associated with an influx of illegal migrants and corruption are eradicated (Portfolio Committee of Home Affairs (2014a). Humane management of immigration is an important value which the DHA seeks to achieve but reports of xenophobic attitudes of DHA officials and the violent manner in which arrests, detentions and deportations are handled reveal that South Africa has failed to promote this value.

2.2.2 How do migrants become illegal in South Africa?

While some migrants enter the country illegally there are some migrants who enter South Africa legally through borders and airports but end up being illegal when they overstay the number of days stipulated for their legal stay. Even though “illegal immigrants are generally perceived to have entered South Africa without required documents, a substantial number of illegal migrants enter the country with appropriate documents” (Campbell, 2007: 4). Letsiri (2012: 13) indicated that a substantial number of illegal Zimbabweans who had entered South Africa through legal processes were “persons with expired study permits, previously employed persons whose residence and work permits had expired, tourists who overstayed and visiting family members who overstayed the duration of their permits”.

South Africa “discourages illegal migration by encouraging foreign nationals to apply for relevant permits from their home countries” (South African Government, 2016). This policy also “prevents people from using visitor’s visas to look for work” in South Africa (Peberdy, 2001: 17). Permit or visa renewals may be done in South Africa if terms and conditions such as submitting applications for renewal 30 to 60 days before the expiry of a current permit are met. Most migrants from southern African countries, including Zimbabwe (since 2009) do not need to acquire permits from their home countries if they intend to visit South Africa for a short period of time. They can obtain visitor’s visas at South Africa’s various points of entry on condition that their intended stay will not exceed the 90-day limit on visitor’s visas (DHA, 2016b). This means that there is still an opportunity for Zimbabweans and other

eligible African migrants to travel to South Africa legally and stay beyond 90 days therefore becoming illegal. Despite the discouraging nature of South Africa's immigration laws, migrant flows have not dwindled significantly as more and more migrants continue to travel to South Africa to seek better living conditions. Some continue to walk across borders illegally or swim across the Limpopo River in order to enter the country illegally. Others utilise legal entry points by entering on visitor's permits and then acquiring fraudulent documents (Peberdy, 2001: 20).

Undesirable persons

In the past, immigrants who overstayed in South Africa were liable to pay a fine before being allowed to re-enter the country. In May 2014, the DHA announced that fines would no longer be charged to persons who overstayed the duration of their permits in South Africa. Rather, a more draconian rule was introduced. New regulations were put in place to ensure that any foreign national who overstayed in South Africa would be declared undesirable and ineligible to enter or live in South Africa for a period of time ranging from 1 to 5 years depending on the length of their overstay period (First Step Immigration and Visa Services, 2014; South African Government, 2016). These new regulations emerged from the removal of Directive 43 of 2010 which allowed foreign nationals to exit and re-enter South Africa while their permit applications were still pending as long as the migrants could provide proof that they had applied for a permit (Intergate Immigration, 2014).

The challenges posed by the removal of Directive 43 of 2010 are many but there are two main ones which are relevant to this dissertation. Firstly, Zimbabweans cannot apply for permits and travel between South Africa and Zimbabwe before they know the outcome of their permit application regardless of how long the DHA will take to process the permit. Secondly, those who overstay are unlikely to pass through legal ports of entry for fear of being declared undesirable. This means that more illegal migrants are likely to remain in South Africa for fear of being deported and declared undesirable at immigration entry/exit points. The new regulations can, to some extent, however, deter foreign nationals from attempting to overstay the duration of their permits. The removal of Directive 43 of 2010 and the risk of becoming undesirable are clear signs that South Africa's migration management strategies continue to be restrictive and punitive. No country can be denied the right to

implement policies which discourage overstays and illegal migration but sometimes such policies have the unintended consequence of causing the problems which they are meant to prevent- illegal stays in this case.

The numbers problem: we do not know how many illegal migrants are in South Africa

It is evident that migrants earn the status of being illegal in different ways. It is therefore difficult to accurately count the number of illegal immigrants living in the country. There are no reliable figures on illegal migrants living in South Africa because it is extremely difficult to mobilise accurate data about undocumented persons (Campbell, 2007: 5; Meldrum, 2007). Several estimates can be derived mostly from gathering information from deportation records and data captured of lawful entrants per annum, but such statistics do not give an accurate estimate of how many illegal and legal foreign nationals are residing in South Africa at any one time.

In 2010, the estimated number of undocumented Zimbabwean migrants was believed to be about 1,5 million (Pokroy, 2012: 40). The total number (both documented and undocumented) of Zimbabweans residing in South Africa then, was believed to be between one and three million (Chiumia, 2013; Yoyo, 2014). However, asylum claims and DZP applications were below 500, 000 which leads one to question whether there are indeed over a million illegal Zimbabwean migrants who have not opted for any kind of legalisation process. The lack of precise figures and the high estimates are “based on both government and non-governmental organisations’ vested interests in exaggerating immigration numbers” (Chiumia, 2013). By exaggerating the estimates of undocumented migrants the government can justify tighter immigration controls while non-governmental organisations (NGOs) can secure donor funding for reaching out to a popular cause (Chiumia, 2013).

2.3 An exclusive and increasingly restrictionist approach towards migrants

2.3.1 Xenophobic sentiments and an exclusive immigration policy

According to Sally Peberdy (2001: 15), South Africa’s “shift towards citizenship and inclusivity as markers of belonging has led paradoxically to an exclusive and increasingly

restrictionist immigration policy”. The first Home Affairs Minister of a democratic South Africa, Mangosuthu Buthelezi, spent his 10-year tenure putting in place “a strict anti-immigration regime, particularly aimed at keeping low or unskilled African migrants out of the country” (Hammerstad, 2011: 2). In 1995 Mangosuthu Buthelezi declared that, “with whatever empathy or understanding one may judge the reasons and motivations of why people are compelled to leave their home countries to seek refuge in South Africa, the interests of South Africa and her citizens and legal residents must be the first and foremost consideration” (Peberdy, 2001: 15). This statement reveals that South Africa’s policies towards migrants take a South Africa people first approach thus reducing migrants to a category of persons that do not require much of governments’ attention or assistance.

South Africa’s exclusive and increasingly restrictionist immigration policy is complemented by anti-foreigner public sentiments in South Africa. Xenophobia is a huge threat which is faced by African foreign nationals residing in South Africa as shown by the 2008 and 2015 waves of xenophobic attacks and the everyday use of terms such as “makwerekwere” (a South African derogatory term which describes African foreign nationals). Research has revealed that over 60% of South Africans would “favour a highly restrictionist entry policy and draconian response to illegal migration” and “1 in 4 South Africans reported that they would be happy if non-citizens did not come to South Africa at all” (Mattes, Crush & Richmond, 2000: 8). The link between exclusionary policies and xenophobic sentiments therefore promotes the continuation of restrictive policies in the best interest of the people of South Africa. “In practice, illegal migrants are usually seen as African while undocumented migrants from elsewhere are largely ignored” (Peberdy, 2001: 19). This is especially relevant if one looks at the waves of xenophobic violence which have occurred across South Africa over the past 10 years. The 2015 episode of xenophobic violence which started in the Kwa-Zulu Natal Province led to the use of the term “Afrophobia” to define xenophobic attacks against African foreign nationals. Arrests, detentions and deportations are also often associated with African migrants on South African soil.

Politically, policy platforms on immigration have been fraught with xenophobic, exclusionary discourses and vigorous attempts to discourage both legal and illegal migration (Peberdy, 2001: 16). For example, the Inkhata Freedom Party (IFP) and the Democratic Alliance (DA) opposition parties have often advocated for tougher policy reforms when it comes to

immigration. There has been a general shift towards encouraging skilled migration and tourism over the past few years thus immigrant selection in South Africa is overtly tied to criteria of productivity, wealth and skills thereby excluding many potential migrants from the SADC region. This therefore excludes persons who are involved in the informal labour sector and domestic labour market (mostly women) since their skills and professions are not regarded as necessary or required.

2.3.2 Lack of gender sensitive migration management strategies

Modern studies of survival migration, mixed migration flows and migration management tools need to be gender-sensitive. In recent years, women have formed an increasing proportion of both economic and humanitarian migration (Organisation for Economic Co-operation and Development [OECD], n.d.). Between 1997 and 2010 the percentage of Zimbabwean female migrants in South Africa rose from 39% to 44%. The percentage of documented Zimbabwean female migrants is expected to be as high as 48% of the total number of documented Zimbabwean migrants in South Africa by the end of 2017 (Crush, Chikanda & Tawodzera, 2015: 368). Table 1 below shows more detailed information about the demographic profiles of Zimbabwean migrants in South Africa. It is important to note that these figures are based on records of legal migration. Research has revealed that, female migrants have historically travelled to work in South Africa without obtaining official permission (Wentzel & Tlabela, 2006: 79). Illegal migration and traditional gender based economic activities which influence the type of work which many undocumented female migrants are usually involved in are not recognized in South Africa's immigration policy. When female migrants enter a country they may be admitted to jobs such as domestic work and child care services- skills which are not recognized as part of the formal labour sector (Boyd & Grieco, 2003: 5).

Table 1: Demographic profile of Zimbabweans in South Africa (1997-2010)

Sex (%)			
Male	61	56	56
Female	39	44	44
Age in years (%)			
15–24	26	15	31
25–39 (25–44)	(50)	56	59
>40 (>45)	(23)	24	10
Marital status (%)			
Married	66	58	41
Formerly married*	8	11	10
Unmarried	25	31	49
Status in household (%)			
Household head	34	28	28
Spouse	26	13	15
Son/daughter	20	50	43
Other family	7	9	12
Other	13	1	2

Note: *Separated/divorced/abandoned/widowed.

Source: (Crush, Chikanda & Tawodzera, 2015: 368).

Major recipients of international migrants such as South Africa have to manage issues associated not only with growing numbers of migrants but also with the gender dynamics of migration flows. Research evidence has shown that there is an increase in the number of female persons migrating from their countries of origin or permanent residence (OECD, n.d). According to the International Organization for Migration (2015), “women constitute 48% of the international migrant stock worldwide”. According to Nicos Trimikliniotis and Mihaela Fulas-Souroulla (2009: 23) female immigrants often have limited opportunities in the countries of destination and they are often forced into undocumented work. Because of their migratory status, many undocumented Zimbabwean female migrants residing in South Africa have limited job opportunities. Most undocumented Zimbabwean female migrants end up working typical low-skilled female jobs such as domestic labour, sex work and small scale trading.

According to a research study conducted by Chipso Hungwe in 2012, sex work is one of the main sources of income for Zimbabwean female migrants who do not have access to well-paid formal sector jobs in the Gauteng province (Hungwe, 2013: 64). Migration management

policies therefore need to consider documenting undocumented female migrants including those who work in the informal labour sector. This not only empowers undocumented migrant women to documented status but guarantees them access to services such as health care facilities (Trimikliniotis & Fulas-Souroulla, 2009: 26). Any future project which seeks to address the problem of undocumented migrants needs to tackle the restrictive policies which have a disempowering effect on women who are not part of the formal sector.

2.3.3 The need for critical skills and other economic interests

South Africa's immigration policy is mainly aimed at attracting and importing critical and scarce skills for occupations in fields such as Engineering, Architecture, Health, Life and Earth Sciences and Academia. Furthermore, the government of South Africa seeks to ensure that "the contribution of foreign nationals to the labour market does not adversely affect the employment rates or the standards and expectations of South African citizens" (South African Government, 2016). Research has shown that South Africa has a selective immigration policy which is mostly open to persons with critical skills which South Africa has a shortage of (South African Government, 2016). Ironically, these restrictions may have increased the rates of undocumented migration as people who have been refused visas or those who are not eligible for available visa and permit categories resort to entering and living in the country illegally (Peberdy, 2001: 18).

According to a qualitative study conducted by Chipso Hungwe (2013) on the survival strategies of Zimbabwean migrants in Kempton Park and Tembisa, South African migration policies are not outsider friendly. This means that Zimbabwean immigrants' labour market opportunities are inevitably limited thereby pushing them into informal sector jobs or unscrupulous underground activities while concealing their identities (Hungwe, 2013: 52). This therefore increases the numbers of undocumented Zimbabwean migrants residing in South Africa thereby perpetuating the problem of undocumented migration and unreliable migration data. The imbalance between increasing migration and migration restrictions leads to the use of informal entry routes by migrants, thereby creating further challenges for receiving countries (Akokpari, 2000: 73).

Peberdy (2001: 18) contends that increasing barriers to entry is a practice which is inherently restrictionist and directed at persons from African countries since most of them do not qualify for special skills permits or they are unable to obtain general work permits because potential employers often need to justify why the positions they have offered to foreign nationals cannot be filled by South African citizens and permanent residents. Furthermore, most job advertisements stipulate that applications are only open to citizens or permanent residents. This therefore means that in order to enter into the formal labour sector some migrants may end up acquiring fraudulent South African documents. According to the DHA's Director General (DG), Mkuseli Apleni, immigration poses security threats to the country's "sovereignty and public safety" but it is also needed in order to promote the economy (InSession, 2014). South Africa's migration management policy and immigration regulations therefore strive to attract desirable migrants (those whose migration and skills are perceived to offer South Africa high economic benefits) and deter or inhibit those who are unwanted and undocumented.

South Africa's migration dilemma can be best explained using Hollifield's assertion that "modern states are trapped in a liberal paradox whereby, in order to maintain competitive advantage, governments must keep their economies open to investment, trade and migration while also having to safeguard the territorial boundaries of the state thereby requiring them to regulate migration while also allowing for some degree of openness" (Hollifield, 2004: 901). The effects and management of international immigration in South Africa cannot be fully understood without reference to the economic history of South Africa (Kabwe-Segatti & Landau, 2008: 29). Since the establishment of the post-apartheid government in 1994 discourse regarding national interests has highly influenced government's migration management policies. The role of migration in South Africa is mostly appreciated with regards to South Africa's need to attract migrants who have special skills which South Africa is short of in order to boost South Africa's economy and development. Low skilled labour is also required to some extent, especially in sectors such as mining and agriculture (Kabwe-Segatti & Landau, 2008: 30).

South Africa's management of migration is embedded in the country's position in the global political economy. Based on its neo-liberal economic aspirations and current position as one of Africa's largest economies South Africa has a vital role to play when it comes to

promoting more open borders and stimulating economic activity within the southern African region (Kabwe-Segatti & Landau, 2008: 31). However, South Africa's realist approach to regional trade and migration policy contradicts these values. This is particularly evident in the way in which South Africa tends to focus more on facilitating free trade and recruiting foreign nationals with skills that are deemed as critical for South Africa's economy while remaining hesitant to promote the free movement of persons who do not fit into this category.

2.3.4 The criminalisation of illegal migrants

Arrests, detention and deportation are some of the strategies which the South African government employs in order to deter illegal migration (Peberdy, 2001: 22). Since 1994 the government has worked at strengthening border control and mobilising police and armed forces to patrol entry points. However, the effectiveness of these measures has always been low. This was especially true during the mass exodus of Zimbabwean migrants in the early 2000s, a period during which the DHA discovered that most Zimbabwean deportees ended up resurfacing in the country after being deported from South Africa (Meldrum, 2007).

The South African government has in the past called for police and military operations to crackdown on criminals and illegal migrants. For example, during Operation Crackdown in the year 2000, of the 1 974 arrests made, 391 were illegal immigrants ("2000 arrested in...", 2000). During the 2015 nationwide Operation Fiela, undocumented migrants were taken to Lindela Home Affairs Centre and deported according to their countries of origin. The operation was aimed at creating safer South African communities and ensuring adherence to the laws of the country. According to the Government Communication and Information System (2015), 1 123 undocumented migrants were part of the 2 908 arrests which were made during a massive 2-day Fiela operation on 30 and 31 August. This meant that the majority of arrests during the 2 days were mostly undocumented migrants thereby leading to criticism by analysts who indicated that Fiela had become a state-sponsored case of xenophobia. Operation Fiela had been introduced after a spate of xenophobic attacks in Gauteng and KwaZulu-Natal provinces (Maromo, 2015b). Alfani Yoyo from the Coordinating Body of Refugee and Migrant Communities said that, Operation Fiela unfairly targeted foreign nationals and perpetuated "the perception that migrants are to be blamed for

the social ills in the country thus cementing the attitude of us and them” which has already crippled integration in South Africa (Jordaan, 2015).

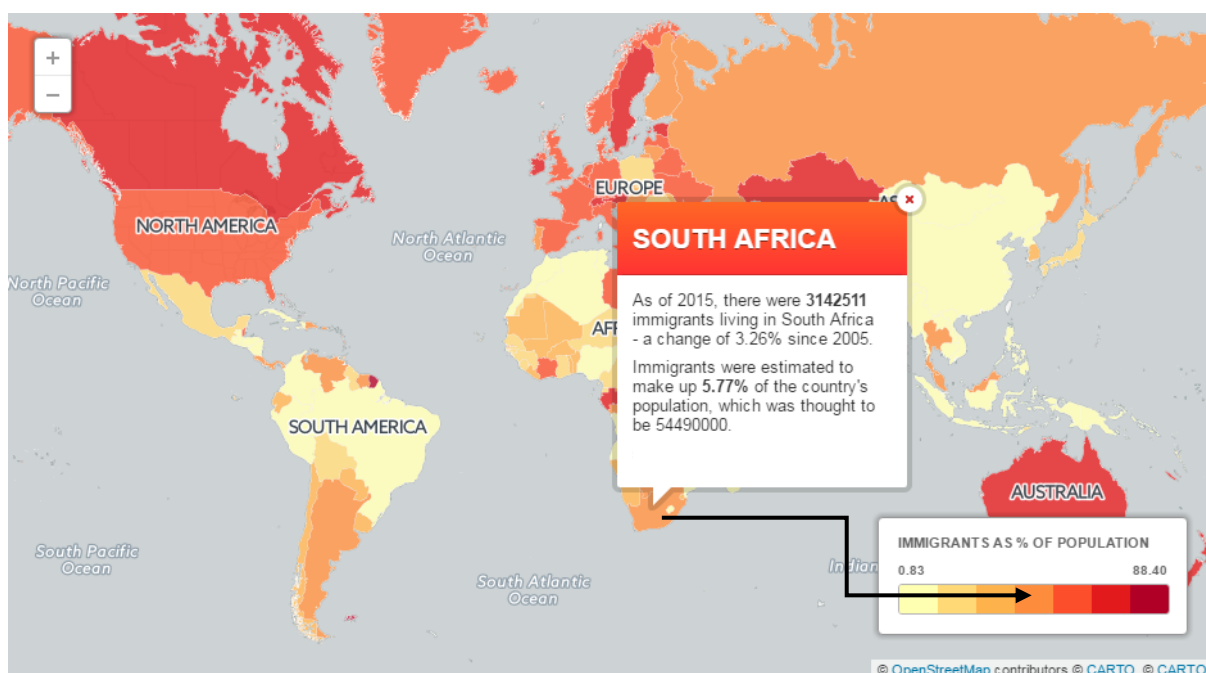
2.4 Who migrates to South Africa?

Despite South Africa’s focus on creating migration policies which are based on the country’s security and economic interests, South Africa is the destination of different classes of migrants. South Africa is a major destination for refugees, displaced populations and economic migrants (for both low skilled and highly skilled job categories) (Tati, 2008: 425-426). South Africa is one of the major host destinations for asylum seekers, refugees and economic migrants on the African continent.

How many foreign nationals are currently residing in South Africa?

The map below provides recent information on international migration trends. As of 2015 there were about 3 142 511 documented migrants living in South Africa (Kirk, 2016). This meant that almost 6% (5.77%) of the 54 490 000 people living in South Africa in 2015 were not originally from South Africa.

Map 1: International migration population trends as of 2015

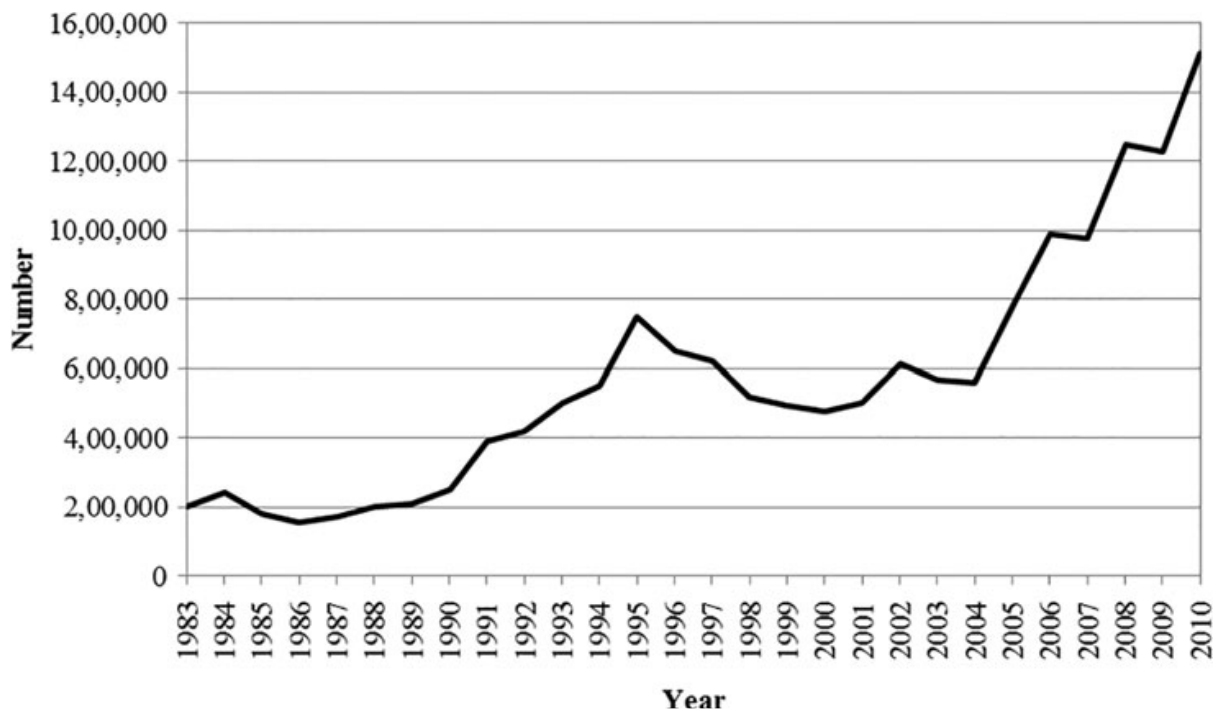


Source: (Kirk, 2016)

Legal entries into South Africa from Zimbabwe, 1983–2010

Since the late 1990s more and more Zimbabweans have left their country for South Africa. Figure 2 below shows that in 1997, just over 600,000 Zimbabweans entered South Africa legally. In 2006, the number was closer to 1 million and in 2010 about 1,5 million Zimbabweans had legally entered into South Africa. These figures show that there was definitely an increase in the numbers of Zimbabwean migrants between 2000 to 2010.

Figure 2: Legal entries into South Africa from Zimbabwe from 1983 to 2010.



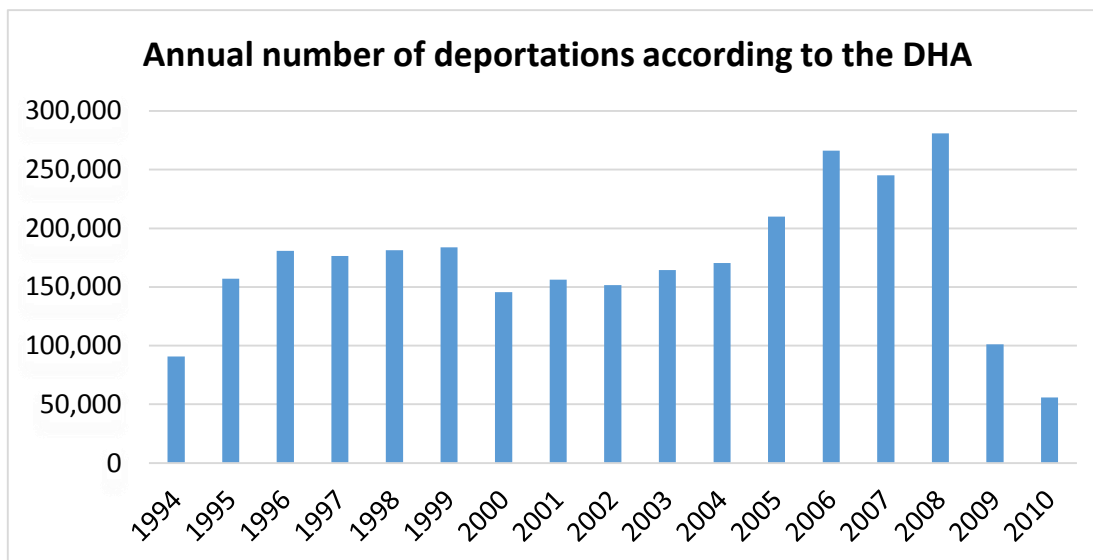
Source: Data from Statistics South Africa in (Crush, Chikanda & Tawodzera, 2015: 366).

Deportation figures

Accompanying legal entries (documented migrants) were undocumented migrants. Some of them have been subjected to detention and deportation for breaching South Africa's immigration laws. The majority of undocumented African migrants who are deported from South Africa come from Mozambique, Zimbabwe and Lesotho (Kabwe-Segatti & Landau, 2008: 151). Table 2 and figure 3 below show deportation statistics from 1994 and 2011.

Table 2 & Figure 3: Annual deportation statistics for South Africa (1994-2010)**Table 2**

Year	Number of deported migrants
1994	90 692
1995	157 084
1996	180 713
1997	176 351
1998	181 286
1999	183 861
2000	145 575
2001	156 123
2002	151 653
2003	164 294
2004	170 301
2005	209 988
2006	266 067
2007	245 294
2008	280 837
2009	101 060
2010	55 825

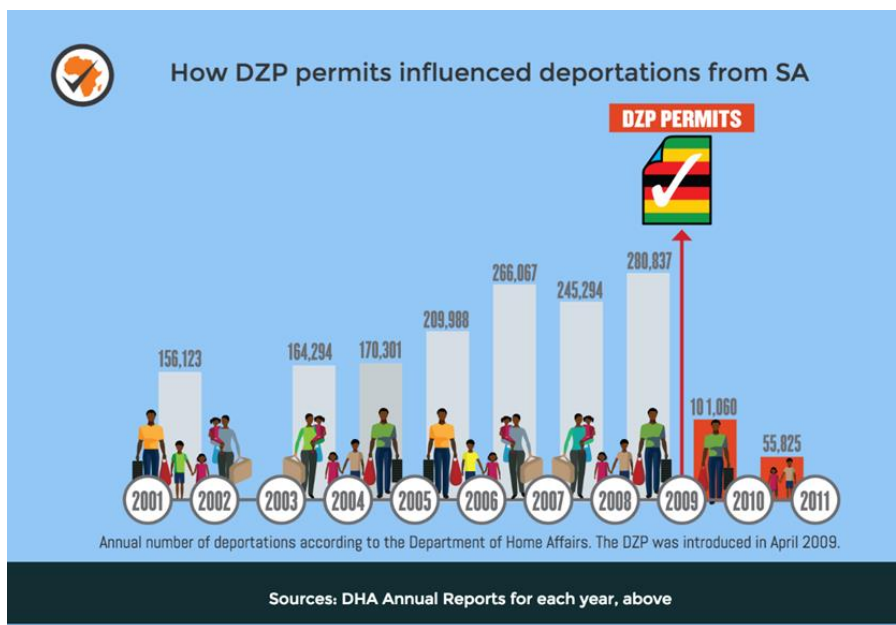
Figure 3

Sources: (Kabwe-Segatti & Landau, 2008: 151; Jeynes 2016)

According to Kabwe-Segatti and Landau (2008: 151) an influx of Zimbabwean migrants post 2000 led to a rise in deportation figures since Zimbabweans made up the majority of the

deportees population. The number of deportees rose sharply from 170 301 in 2004 to 209 988 in 2005 then further increased to 266 067 by the end of 2006. During the height of Zimbabwe's political and economic crises in 2008, deportations rose to 280 837. Following the implementation of the DZP project between 2009 and 2010, deportation figures went down from 280, 837 in 2009 to 101, 060 in 2010 and 55, 825 in 2011 (Jeynes, 2016).

Figure 4: Deportations per annum between 2001 and 2011



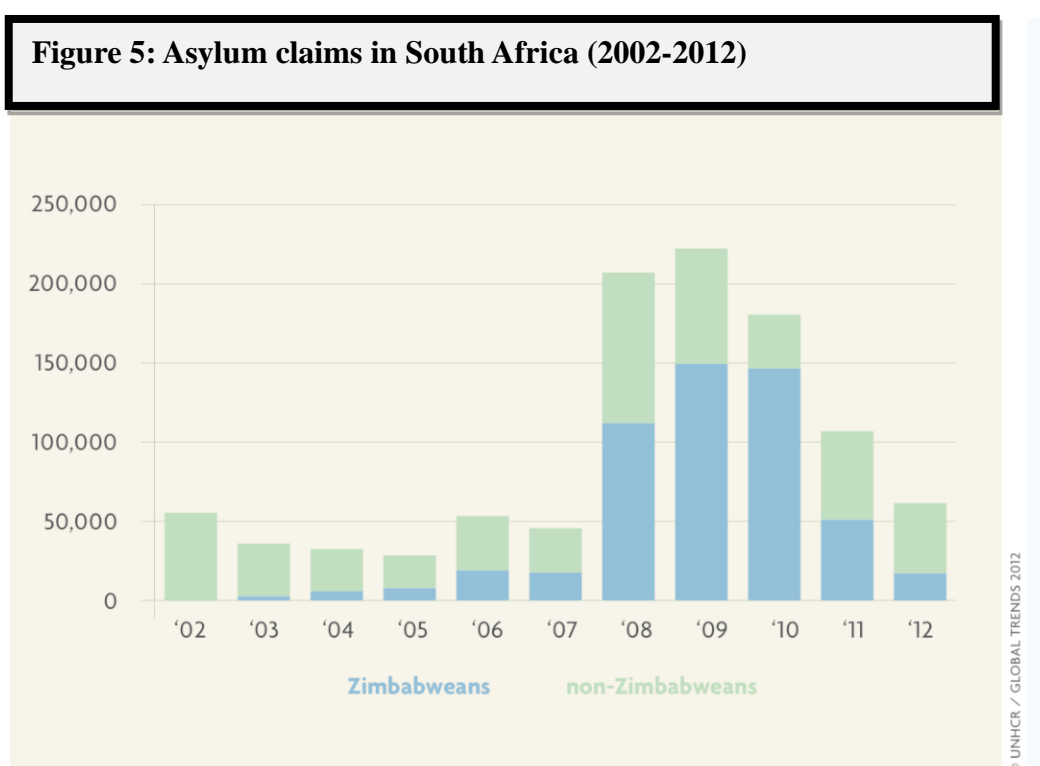
Source: (Jeynes, 2016)

From 2003 onwards it was reported that the influx of Zimbabwean migrants led to an increase in the number of deportees per annum. The peak season for deportations was between 2006 and 2009 when Zimbabwe experienced its worst economic and political crises since independence. It is assumed that after the issuing of DZP permits in 2010 the numbers of illegal migrants who were deported annually went down from 280 837 in 2009 to 101 060 because of the DZP regularisation project (Jeynes, 2016).

The DHA incurs the costs of deporting illegal foreigners thus the influx of undocumented migrants from 2008 onwards put the department under a lot of financial pressure. It was reported that the “DHA’s total expenditure on deportations between 2010 and 2011 was R173.3 million, R168 million from 2011 to 2012 and R199.9 million from 2012-2013” (Mthembu-Salter et al., 2014: 12).

Asylum claims

One of the major factors which influenced the implementation of the DZP and ZSP projects was the flooding of South Africa's asylum seeker management system by Zimbabweans who were mostly perceived as ineligible for asylum status since most of them were economic migrants. Asylum claims by Zimbabwean nationals increased between 2000 and 2009, the period during which an influx of Zimbabwean migrants was reported. Figure 5 below shows that asylum claims by Zimbabwean nationals made up the bulk of asylum claims during the height of Zimbabwe's political and economic crises in 2008 up until the period when the DZP project was completed in 2010.



Source: (Africa Check, 2013).

It is evident that there was a general decrease in the number of Zimbabwean asylum applicants post 2009, perhaps because of the DZP and the period of stability following the establishment of a Government of National Unity in Zimbabwe. In 2009 and 2010 the number of Zimbabwean asylum claims per annum was around 150 000. This figure went down to about 50 000 in 2011 and it was lower than 25 000 at the end of 2012 (Africa Check, 2013).

2.5 Mixed migration flows: a complex issue to handle

2.5.1 Defining mixed migration flows into South Africa: The Zimbabwean case study

Since coming to power in 1994, the African National Congress (ANC) has had to deal with numerous policy challenges related to the implementation of migration policies which are in line with South Africa's economic and security needs but also sensitive to human rights issues (Tati, 2008: 423). Undocumented migrants (unwanted migrants) are one of the major problems which South Africa has continuously struggled to deal with. South Africa cannot fully control the multiple political, social and economic instability push factors which influence people to migrate from their countries to South Africa. Owing to this challenge South Africa has to formulate migration management strategies which are cognisant of its geopolitical situation and international migration realities and trends within the region.

Owing to the mixed nature of migration flows, the close relationship between economically motivated migration and forced migration owing to humanitarian reasons makes it difficult for the DHA to determine the categories of persons who deserve to be prioritised especially when it comes to the asylum seeker and refugee management system (Tati, 2008: 426). Refugee status should be granted to "persons fleeing armed conflict or persecution" because the situation in their home country is intolerable and too dangerous for them to be able to return home (Edwards, 2016). Very often, this relates to persons who come from countries such as the Democratic Republic of Congo, Somalia, Sudan and other countries which are in popular conflict zones. Most Zimbabweans have fled Zimbabwe to seek alternative means of survival owing to harsh economic realities thus because there is no direct threat of death or persecution they are classified as economic migrants and viewed as ineligible for asylum or refugee status. Some analysts contend that, the "catastrophic collapse of the Zimbabwean economy has created great difficulties for South Africa" (Kabwe-Segatti & Landau, 2008: 51). Because the nature of factors influencing migration from Zimbabwe are not the same as the factors which make persons qualify for asylum and refugee status it has been difficult to adjudicate cases of Zimbabwean asylum claims as legitimate.

2.5.2 Survival migration: Defining the flow of migrants from Zimbabwe in the early 2000s

Literature tends to distinguish between forced political migration of asylum seekers and refugees from countries in conflict-prone zones such as the Great Lakes region of Africa and economic migration which is caused by individuals' quest for better economic opportunities (Hungwe, 2013: 56). However, Zimbabweans seeking asylum from the early 2000s onwards have been a subject of debates regarding whether they are forced migrants or voluntary economic migrants. Categorising them as either one or the other, as both or as none, is quite problematic especially because of the absence of war in Zimbabwe. However, the economic realities of many Zimbabweans have been so devastating such that, to deny the fact that economic conditions have 'forced' millions of Zimbabweans to migrate would be unfair. The effects of Zimbabwe's economic meltdown can lead to death thus the decision to move to South Africa can be considered as 'forced', humanitarian and crisis-based survival migration (Hungwe, 2013: 56).

The formulation of migration policies based on the economic push factor and political push factor dichotomy does not fully describe the migration flows within developing countries whereby economic challenges are often a direct result of certain political decisions. Chipso Hungwe (2013: 56) argues that, the distinctions only serve as tools for migrant classification and the labelling of some migrants as underserving of certain categories of permits while those coming from countries which are in explicit political crises are perceived as deserving of assistance. This is especially true regarding the asylum seeker management system in South Africa. Post 2000, many Zimbabwean applicants were dismissed as economic migrants who did not qualify for asylum.

It can be argued that based on the economic push factor and political push factor dichotomy Zimbabweans were framed as the main reason why there was increased pressure on the asylum seeker system thereby prompting the South African government to create the DZP process in order to relieve pressure on the asylum application system. This therefore meant that, regardless of the reality that South Africa has large numbers of migrant populations and asylum seekers from other countries, Zimbabweans became a somewhat problematic category which required a 'special' processing method. The influx of Zimbabwean migrants

and the reasons associated with the increased migration flows were unprecedented and they could not be managed using existing migration management tools. Regular work, study and business permit categories were not adequate because the unprecedented flow of migrants included: low skilled labour migrants, people with critical skills, students (from primary to tertiary level), small scale business operators and traders, just to name a few. The influx of Zimbabwean migrants and increasing numbers of unprocessed and undocumented migrants presented the DHA with the opportunity to work towards creating new migration management strategies which would cater for the management of non-typical cases of migration- mixed migration and survival migration this case.

2.5.3 Why regularisation was the way to go.

The global political economy has produced larger and more diverse migration flows which consist but are not limited to: refugees, students, labour migrants and trafficked individuals. These diverse flows have inadvertently promoted the implementation of restrictive immigration policies as recipient countries battle to manage immigration flows and the demands arising from migration flows (Hungwe, 2013: 54; Massey, 1999: 310). South Africa is currently the largest economy in Africa. Furthermore, there is no civil war in the country and the citizens of South Africa are not subjected to political violence on a daily basis. Owing to these factors, South Africa attracts migrants from countries which are less opulent, conflict ridden or stranded in political and economic crises.

Since the 1990s, Zimbabwe's economy has continued to decline and Zimbabwean nationals have been subjected to multiple episodes of political unrest and election related violence since 2000. The mixed migration flows experienced as a result of the exodus of migrants from Zimbabwe from the late 1990s are therefore likely to influence South Africa and other receiving countries to create more restrictive policies as a means of deterring migrants from entering their countries. However, in response to the influx of Zimbabwean migrants post 2000, South Africa did not seek to completely dismiss Zimbabwe's survival migrants by closing off its borders or continuing to facilitate deportation drives.

By rethinking its policy towards Zimbabwean migrants in 2009, the DHA sought to achieve four main objectives. According to Minister Gigaba (South African Government, 2014a) these were the four objectives:

1. “To regularise Zimbabweans who were residing in South Africa illegally.”
2. “To curb the deportation of illegal Zimbabwean migrants.”
3. “To reduce pressure on the asylum seeker and refugee management systems.”
4. “To provide amnesty to Zimbabweans who had obtained South African documents fraudulently.”

Prior to the DZP project, the use of fraudulent South African identity books was a popular survival strategy which some Zimbabwean migrants adopted in order to acquire jobs (Hungwe, 2013: 59). A key informant who participated in a 2012 study of Zimbabwean immigrants’ survival strategies in Johannesburg indicated that she “picked up someone’s identity book, removed the photo and replaced it with her own”. Another participant indicated that, “some undocumented migrants used South African citizens’ identity documents with the consent of the documents’ owners” (Hungwe, 2013: 59). Given that some undocumented migrants resort to forging South African identities it is evident that there is a documentation crisis which has affected immigrants who are in need of documents which enable them to enter into the labour market. Furthermore, legal status enables one to gain easier access to education, health and social services.

Research has shown that there is a causal relationship between strict immigration regulations and an increase in numbers of irregular or undocumented migrants (Akopari, 2000: 73; Trimikliniotis & Fulas-Souroulla, 2009: 25). Furthermore, research has also shown that one of the most effective instruments which can be adopted as a method of combatting irregular migration is “regularizing the status of irregular labour” (Trimikliniotis & Fulas-Souroulla, 2009: 25). However, the big question is: what kind of amnesty or regularisation projects are most appropriate? In the case of the flow of survival migrants from Zimbabwe since the early 2000s, it is evident that South Africa’s migration management tools were inadequate. As a result, regularisation became an option which the DHA implemented by means of creating the DZP and ZSP projects. Before assessing these two projects it is important to look at some of the regularisation attempts which South Africa provided to foreign nationals before 2009.

2.6 Immigration Amnesty programs in South Africa: 1996-2014

Immigration amnesty is the regularisation strategy of granting legal immigration status to persons residing in a country illegally. Between 1996 and 2000, the South African government implemented three immigration amnesty projects (Peberdy, 2001: 20). The first amnesty program was implemented between 1995 and 1996 to offer permanent residence status to contract mineworkers from SADC countries who had worked in South Africa for at least 10 years before 1995 and voted in the 1994 elections. Only “47 364 out of 130 000 eligible miners applied for permanent residence status” during the amnesty period (Peberdy, 2001: 20). The second amnesty program was implemented in 1996 to grant “amnesty to undocumented citizens of SADC member states who had entered the country clandestinely during the apartheid period and lived in South Africa for more than five years” (Peberdy, 2001: 20). Only 201 602 applications were received and 124 079 were approved (Crush & Williams, 1999: 7). The third amnesty project was for former Mozambican refugees who had entered South Africa before 1992. The amnesty was announced in 1997 but it was only implemented in the year 2000.

The aforementioned amnesty programs acknowledged the economic contributions of undocumented African foreign nationals who had entered South Africa before 1994. The implementation of these amnesty projects by South Africa is an indication that South Africa does not always ignore undocumented African economic migrants. Instead of offering formerly undocumented mine workers and former refugees temporary permits, the DHA granted permanent residence status to approved applications. However, following the implementation of these policies, the South African government began to implement draconian measures towards undocumented migrants. Simply put, if you did not apply or qualify for the aforementioned and you were undocumented, you were illegal and eligible for deportation.

Prior to the implementation of the DZP process in 2009 a moratorium on deportations and visa-free entry for 90 days was introduced to allow Zimbabweans to enter and exit South Africa legally for longer periods in order to ease the situation for Zimbabwean migrants while the economic situation in Zimbabwe was being stabilised by the freer flow of remittances (Hammerstad, 2011: 3). The moratorium, also known as the ‘special dispensation’ was

suddenly revoked within months and replaced by the DZP project which would grant undocumented migrants the chance to legalise their stay in South Africa for a longer period of time (Hammerstad, 2011:3).

By approving the DZP (2009-2014) and ZSP (2014-2017) regularisation projects the South African government acknowledged that there were many Zimbabweans who were forced to become illegal migrants owing to poor political and socio-economic conditions back home. These negative push factors had made “South Africa attractive because of its more stable economic status and geopolitical position” (Parliamentary Monitoring Group [PMG], 2014b). Unlike the three previous amnesty programmes, which entitled applicants to permanent residence status, the DZP and ZSP were temporary permits and Minister Gigaba reiterated that ZSP holders would not qualify for permanent residence status after 2017 (Gigaba, 2016 [video file]).

South Africa’s shift from creating amnesty programmes which allow undocumented migrants to apply for permanent residence to temporary special permits such as the DZP, ZSP and LSP shows that there has been a change in the way in which the DHA handles the problem of undocumented migrants, especially those who do not qualify for Critical skills visas or general work permits. In the case of the Zimbabwe special dispensation permits this could be attributed to the belief that the situation in Zimbabwe will change. On the other hand, temporary special permits may be South Africa’s method of deterring immigrants from flooding into South Africa and expecting to receive amnesty in the form of permanent residence status after staying in the country illegally for a number of years.

A major problem affecting post-apartheid immigration policy is the tightening of entry requirements and hardening of access to citizenship (Kabwe-Segatti & Landau, 2008: 35). It is evident that South Africa continues to exercise a highly selective approach to migration management which is not only restrictive to those who intend on migrating to South Africa but to those who are already residing in South Africa. Should the DHA decide not to create a new special permit process for Zimbabweans by the end of 2017 the likelihood of formerly legal persons becoming illegal is high. This is so because, for some, the cost of returning to Zimbabwe or attempting to apply for regular permits from Zimbabwe would be too much of a

risk compared to staying in South Africa illegally. Furthermore, “as the avenues for Zimbabweans to regularize their status close up, it is highly likely that some people may out of desperation, seek to acquire fraudulent South African documents to enable them to remain in the country” (Lawyers for Human Rights, 2011b).

2.7 Conclusion

This chapter highlighted three major issues. Firstly, South Africa’s migration management policies are highly influenced by the need to safeguard South Africa’s economic and security interests as well as citizen’s anti-immigrant and Afrophobic sentiments. Secondly, South Africa’s approach towards the influx of Zimbabwean migrants in the early 2000s has been shaped by the geographical, economic, political and historical links between South Africa and Zimbabwe. South Africa cannot condemn the Zimbabwean government for its failures because of these links. However, it was not possible for South Africa to completely ignore the influx of migrants which was caused by the crisis situation in Zimbabwe. Thirdly, South Africa continues to move towards harsher migration management strategies such as: declaring persons as undesirable for periods up to 5 years for overstaying, not granting permanent residence status through amnesty programs which have been implemented after the year 2000, restricting access to asylum and refugee permits and reinforcing that migrants who qualify for critical skills visas are the most desirable category of migrants.

3. Chapter 3: An assessment of the Dispensation of Zimbabweans Project (DZP)

3.1 Background information on the DZP project

According to the South African Government (2014a) the DZP project was aimed at achieving the following four objectives:

1. “To regularise Zimbabweans who were residing in South Africa illegally.”
2. “To curb the deportation of illegal Zimbabwean migrants.”
3. “To reduce pressure on the asylum seeker and refugee management systems.”
4. “To provide amnesty to Zimbabweans who had obtained South African documents fraudulently.”

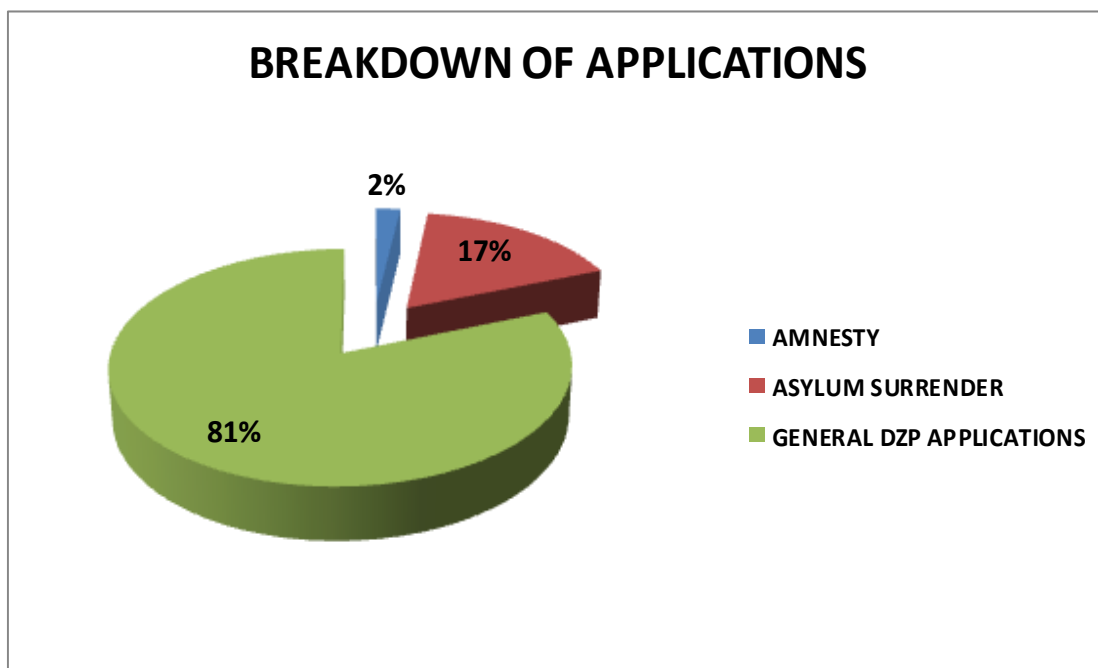
The Department of Home Affairs (DHA) carried out the Dispensation of Zimbabweans Project (DZP) between 20 September and 31 December in the year 2010 (Amit, 2011: 4). The DZP permits were scheduled to expire on the 31st of December in 2014, giving formerly undocumented Zimbabweans the right to legally reside and work, study or conduct business in South Africa on a four-year temporary special permit (Pokroy-Rietveld, 2014: 44). According to the Portfolio Committee of Home Affairs (2014c), under the DZP process, “the DHA issued 242 731 permits and rejected 51, 780 applications”. The DZP provided an alternative documentation process to the asylum system for many undocumented Zimbabwean migrants. According to an African Centre for Migration Studies (ACMS) report, the DHA confirmed that there were at least 400,000 Zimbabwean asylum seekers living in the country since 2008 (Amit, 2011: 7). The DZP process therefore issued less permits than required since according to the asylum seeker application system there were over 250 000 undocumented Zimbabweans seeking to legalise their stay in South Africa.

Unlike regular permit application processes which require applicants to submit documents such as bank statements and proof of medical insurance the DZP had more relaxed requirements for work, study and business permit applications. The three primary documents required for applications included: “an application form with applicants' fingerprints, a Zimbabwean passport and documentation confirming one of the following: a) proof of employment (e.g. an affidavit from the employer); b) proof of registration with an

educational institution; or c) Proof of business (e.g., company registration, registration with the South African Revenue Service)” (Amit, 2011: 4). “The DHA indicated that, undocumented Zimbabweans who could not fulfil these criteria had no legal basis to remain in the country” (Amit & Kriger, 2014: 276).

According to the Department of Home Affairs (DHA, 2014: 2), the majority of DZP applicants (81%) were general applicants who had not previously applied for asylum and were not in possession of fraudulent South African documents, 17% were persons who had previously made asylum claims but voluntarily resorted to applying for DZP permits and 2% of the applicants were in possession of fraudulent South African documents. Based on these findings one can conclude that the DZP project mostly attracted undocumented Zimbabwean migrants who had not resorted to any means of legalising their status by either seeking asylum or acquiring fraudulent documents. Figure 6 below shows the different categories of DZP applicants as reported by the Department of Home Affairs.

Figure 6: Breakdown of DZP applications



Source: (DHA, 2014: 2)

3.2 The benefits of the Dispensation of Zimbabweans Project (DZP)

3.2.1 Legalising the illegal -Documentation of the undocumented

Since 81% of the DZP applicants were formerly undocumented the DZP process can be commended for allowing a significant number undocumented Zimbabweans to legalise their stay in South Africa. By implementing the DZP, the DHA acknowledged the reality that some Zimbabweans were forced to migrate to South Africa without applying for regular permits at the South African High commission in Zimbabwe. Because they were fleeing from economic and political hardships which they had not anticipated and they could not wait for a long time for the processing of passports and permits, many resorted to travelling and settling in South Africa without the required documentation. Furthermore, some undocumented migrants did not qualify for regular permit categories thus illegal migration was their only alternative. According to Julian Pokroy (2013: 49) during the DZP process some undocumented Zimbabwean migrants were issued with work permits irrespective of their qualifications or skills set thus they were not subjected to South Africa's restrictive visa/permit application requirements.

Tarryn Pokroy-Rietveld (2014:44) highlighted that the DZP process allowed the DHA to prevent deportations of Zimbabweans who were in South Africa illegally. This not only helped the South African government to save up on deportation costs but it saved South Africa from having to deal with the ineffective deportation system which had been a major challenge because most deportees ended up resurfacing in the country a few days or months after being deported (Meldrum, 2007). In 2016, Africa Check reported that deportation rates went down from 280 837 in 2009 to 101 060 in 2010 and 55 285 in 2011 owing to the positive effects of the DZP permits amongst other factors (Jeynes, 2016).

The fact that 81% of DZP applicants were general applicants who were neither holders of fraudulent documents seeking asylum nor formerly on the asylum management system shows us that many undocumented Zimbabwean migrants took the opportunity to apply for the DZP in order to formalise their stay in the country. However, the numbers of applicants (294 511) and the number of the DZP permits which were issued (242 731) was very low considering

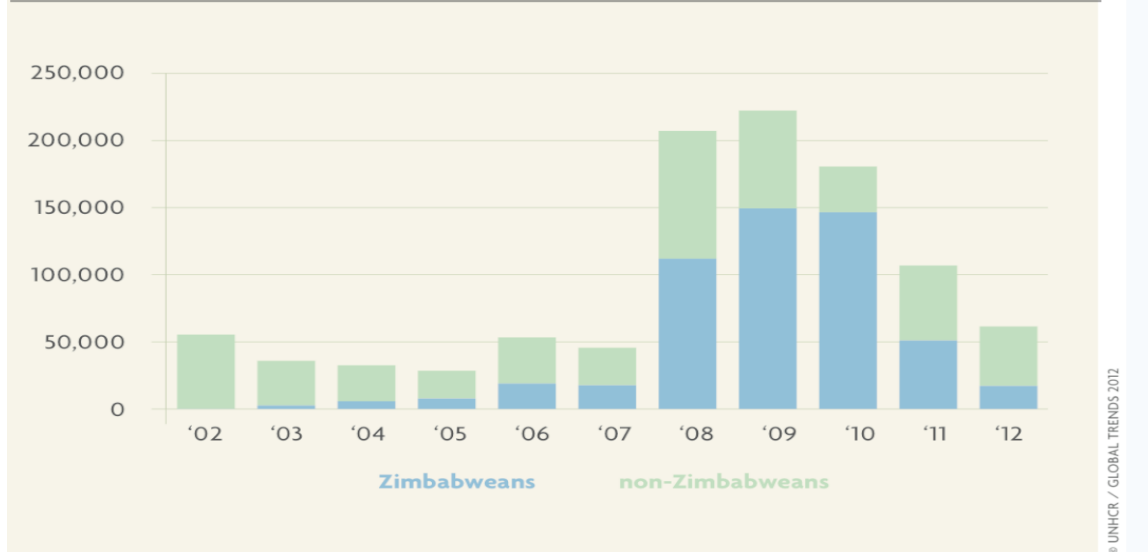
estimates that there were more than a million undocumented Zimbabweans in South Africa in 2009 (Pokroy, 2012: 40).

3.2.2 Relief of pressure on the asylum seeker management system

Pressure on the asylum seeker application system was one of the main reasons why the DHA resorted to implementing the DZP. The DZP process provided an alternative to the already flooded asylum and refugee management system which had been experiencing backlogs owing to the unprecedented influx of Zimbabwean applicants, most of whom were perceived to be ineligible for asylum because they were economic migrants. The DHA encouraged asylum seekers to apply for the DZP but only 17% of the DZP permit applicants were persons that decided to surrender their asylum claims (DHA, 2014:2). This 17% indicates that very few asylum claimants were willing and/or able to apply for the DZP. Why this was so is debatable. For some people, asylum and refugee status permits were better options than a short-lived 4-year special permit. For those who viewed themselves as asylum seekers and not economic migrants opting for the DZP would not be helpful.

Figure 7 below shows that the majority of asylum claims which were made in South Africa between 2002 and 2010 were made by Zimbabwean nationals. The numbers dropped after 2010 owing to the DZP project, resumption of deportations following the adjudication of DZP permit applications and temporary stability in Zimbabwe during the period of the Government of National Unity (GNU) which had come into effect in 2009.

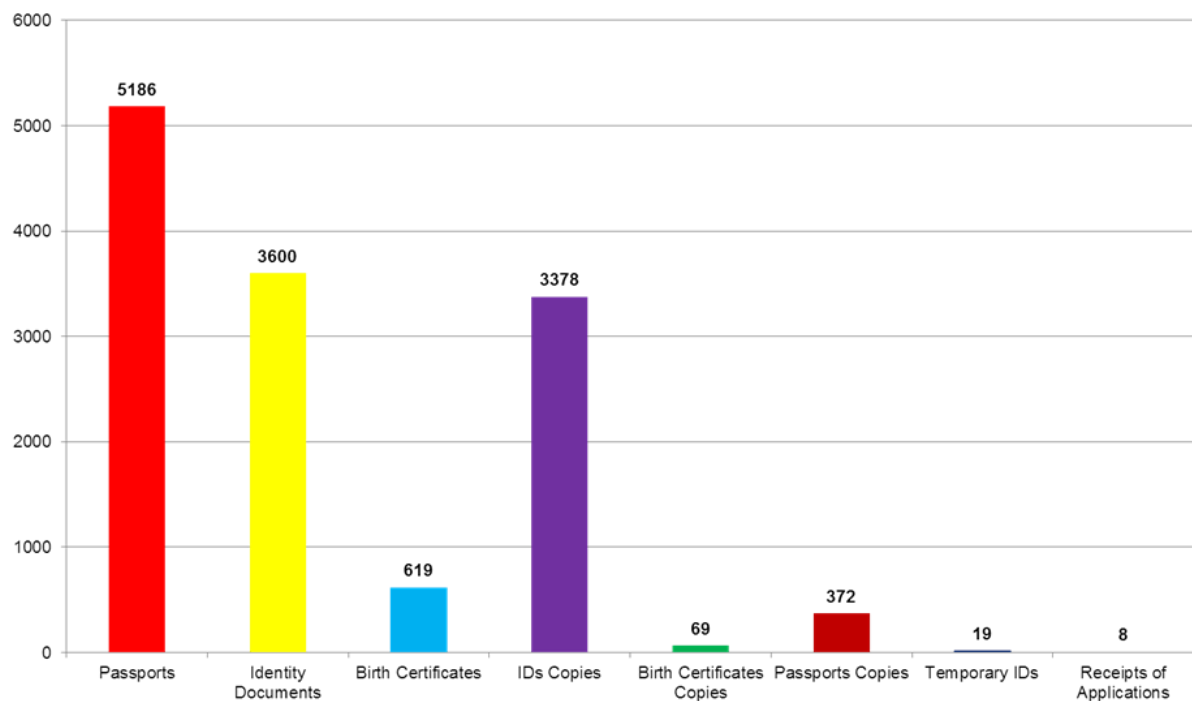
Figure 7: Asylum claims in South Africa (2002-2012)



Source: Africa Check (2013)

3.2.3 Crackdown on fraudulent documents

Figure 8: Fraudulent South African Documents which were surrendered during the DZP project.



Source: (DHA, 2014: 7)

2% of the undocumented Zimbabweans who applied for DZP permits were persons seeking amnesty on condition that they would surrender South African documents which they had acquired fraudulently. By implementing the DZP project, South Africa offered special immunity to Zimbabwean nationals who were in possession of fraudulent South African documents. The entire project is reported to have recovered about “13 251 fraudulent documents” (Portfolio Committee of Home Affairs, 2014c). As indicated in Figure 8 above, the majority of these fraudulent documents were South African passports (5 186), South African identity books (3 600) and Identity copies (3 378). The surrendering of fraudulent documentation led to the cancellation of the fraudulent documents and the cleaning up of South Africa’s population register while at the same time allowing Zimbabwean nationals who held these fraudulent documents to legalise their stay by acquiring DZP permits.

Given that amnesty applicants only made up 2% of the total number of applications we cannot conclude that the crackdown on fraudulent documents was a strong outcome of the DZP process. Perhaps there were not many illegal Zimbabweans in possession of fraudulent South African documents before 2010. For some it may have been difficult to acquire the DZP since they had no proof of work, business or study engagements in South Africa. Perhaps many of those who were in possession of fraudulent documents preferred not to surrender their illegally acquired documents in exchange for temporary DZP permits which did not give them privileges similar to South African citizens and permanent residents. In a host country where obtaining any kind of permit is difficult, willingness to give away already attained fraudulent documents would be unthinkable for some.

Julian Pokroy (2013: 49) indicated that a lot of the DZP applicants who gave up fraudulent South African documents had acquired mortgages, driving licenses, bank accounts and academic qualifications with false identities and nothing was done to correct these details for them upon acquisition of the DZP. Given this, any future amnesty processes may be ignored by illegal migrants who are in possession of fraudulent South African documents because there will be no guarantee that the DHA will assist them with verifying the changes in their identity status for banking details, academic qualifications and other important documentation. Giving up fraudulent documents for amnesty and in exchange for special permits will therefore be perceived as a risk which many would not be willing to take. Poor queue management and poor public information processes led some applicants to rethink

their decision to apply for the DZP and resort to acquiring fraudulent documents. An applicant who was interviewed by the Mail & Guardian during the DZP process was quoted saying; “we want to be documented and to get legal status but if we are going to be frustrated in this way, people will get fraudulent papers” (Keepile, 2010).

3.2.4 Summary of DZP project benefits

The DHA should be commended for making the effort to relieve pressure from the asylum seeker system while also attempting to address the challenges associated with the unprecedented exodus of Zimbabwean migrants in the early 2000s. The inflexible and traditional approach to asylum application adjudication had made it difficult for the DHA to classify persons fleeing their country due to poor economic opportunities along with persons fleeing from well-known conflict zones. The DZP filled up a policy gap in terms of providing undocumented Zimbabweans with an alternative permit application process since they could not be completely regarded as asylum seekers even though the nature of their migration could be classified as survival migration. The DHA should also be commended for making the effort to document illegal Zimbabwean migrants regardless of their academic or professional qualifications and nature of their illegal stay in South Africa (Pokroy, 2013: 49). Research has shown that during the DZP process and in years following the DZP process pressure was indeed relieved from the asylum application system which had been clogged by the effects of the unprecedented flow of Zimbabwean migrants between 2000 and 2009. All in all, the DHA was able to manage the challenges associated with the influx of Zimbabwean migrants without having to go against South Africa’s jealous safe-guarding of access to permanent residence and citizenship status and rights.

3.3 The shortfalls of the Dispensation of Zimbabweans Project (DZP)

3.3.1 Time frame and planning issues

Fewer undocumented Zimbabweans had the opportunity to gain legal status

From the onset, civil society organisations and Zimbabwean migrants in South Africa complained about the short three-month timeline of the DZP documentation process. A study

conducted by the African Centre for Migration and Society (ACMS) during the DZP process revealed that, three months was “an extremely ambitious timeline” to reach out to an estimated 1,5 million undocumented Zimbabweans when only approximately 400,000 Zimbabwean asylum seekers had been processed since 2008 (Amit, 2011: 7). The short timeline of the DZP process was one of the major obstacles which was experienced owing to overwhelming applicant turn outs which then resulted in long queues and delayed application processes (Amit, 2011: 7). According to People Against Suffering, Oppression and Poverty (PASSOP), the DZP did not give the vast majority of undocumented Zimbabweans the opportunity to apply owing to time constraints (Hanekom, 2011b). However, during a DHA update on the Zimbabwe special dispensation projects Mr Jack Monedi (Chief Director of Permits, Department of Home Affairs) indicated that a significant number of Zimbabwean migrants had betrayed the DHA’s gesture to regularise their stay by not attempting to apply for the special permits hence the low number of applications (PMG, 2014b). “There are still no accurate statistics of the number of undocumented Zimbabweans in South Africa” therefore whether many undocumented Zimbabweans were able to regularise their stay or not is subject to much debate (Hanekom, 2011b).

Little time allowed for undocumented Zimbabweans to acquire Zimbabwean passports

The short duration of the documentation process was a disadvantage for would-be applicants who needed to apply for Zimbabwean passports. The short application period for DZP permits made it impossible for most applicants “to obtain necessary documents such as passports” before the application deadline (Lawyers for Human Rights, 2010). Since some undocumented Zimbabwean migrants had entered South Africa with no passports they were faced with the tough decision of either going home to apply for passports or attempting to obtain passports through Zimbabwe consulate services in South Africa. Both options were subject to time and financial constraints (Amit, 2011: 8). To make matters worse, the Zimbabwean consulate in Pretoria was unable to meet the high demand for passports during the DZP application phase (Amit, 2011: 8). Even though the passport requirement was relaxed two weeks towards the end of the DZP project, the damage had already been done and there was no sufficient time to make applications at the last minute for many (Pokroy, 2012: 40).

DHA offices were not fully prepared

Amit (2011: 9) contends that the insufficient time between the announcement and implementation of the DZP resulted in unnecessary pressures such as inadequate preparation of DHA offices. The short timeline of the DZP project led to the inadequate preparation of regional offices thereby further exacerbating service delivery problems since no targets in terms of how many people to attend to daily or throughout the process were set. According to a study conducted by the African Centre for Migration and Society (ACMS), “14% of the respondents resorted to approaching more than one DHA office” in an effort to gain access to queues in order to submit their DZP applications (Amit, 2011: 10). Research has shown that long queues and poor queue management were major obstacles which prevented many from applying for and acquiring DZP permits (Lawyers for Human Rights, 2014). Some applicants reported that they had to sleep in queues for weeks at a time, “being shunted around by security officials and living under the most unsanitary conditions” (Pokroy, 2012: 40).

3.3.2 Poor information dissemination strategies

Most applicants, employers and regional DHA offices had received little information about the application procedures thus inadequate information was a major source of confusion which contributed to the inefficiency of the DZP process (Amit, 2011: 17). Applicants and members of the public heard about the DZP process through the media, but media reports did not have sufficient information regarding the application processes (Hanekom, 2011a). Some of the people who had been queuing outside DZP application offices indicated that they were losing hope since no one was attending to them or informing them about necessary requirements and application procedures (Keepile, 2010). Employers were unsure whether acknowledging that they had employed illegal migrants would not leave them vulnerable to legal action thereby pressing a challenge on applicants who needed proof of employment (Amit, 2011: 17). As a result, some undocumented Zimbabweans were unsure about applying for DZP work permits while some employers were reluctant to provide supporting documentation (proof of employment) for fear of persecution for employing illegal migrants.

More effective and detailed communication methods would have improved the results of the DZP process had more applicants been able to apply and submit proof of employment.

Further on the issue of communication, the relaxing or changing of requirements seemed not to have been effectively communicated to potential applicants and application stations since research evidence revealed that administrative practices relating to the DZP process were not similar across the country's regional offices (Pokroy, 2012: 40). Regional DHA offices resorted to developing their own DZP management systems owing to inadequacy in terms of information sharing amongst the regional offices (Amit, 2011: 21).

3.3.3 Ad hoc changes

Almost two weeks before the deadline for DZP applications, the DHA allowed any other eligible Zimbabweans to apply, regardless of when they had entered the country and on condition that they could produce some form of proof (other than passports) that they held Zimbabwean nationality (Amit, 2011: 9). Since the main requirement for DZP applications was a Zimbabwean passport, it had been difficult for undocumented Zimbabwean migrants who were not in possession of Zimbabwean passports and those who held expired or expiring passports to apply for DZP permits during the early stages of the project. Owing to this, the DZP process was inherently exclusionary because in essence, the DHA sought to document undocumented Zimbabwean migrants who were in possession of valid Zimbabwean passports. The relaxing of application conditions two weeks towards the deadline was not adequate for many thus the exclusionary nature of the DZP process could not be fixed at such a late stage of the project.

“The implementation of ad hoc changes led to the poor management of the DZP application process thereby giving significant rise to administrative justice concerns” (Amit, 2011: 23). Together with the problem of poor communication, the fact that new requirements were indicated at different phases of the DZP process means that applicants were subjected to different requirements which might have disadvantaged some thereby leading us to the conclusion that the DZP process was not administratively fair across the regional offices which were responsible for implementing the DZP (Amit, 2011: 19).

3.3.4 Discriminatory requirements

According to Hammerstad (2011: 3) the DZP permit project was less than successful because

it based application requirements on applicants' ability to prove that they had been in gainful employment, running a business or attending an educational institution in South Africa. Furthermore, similar to most of its migration management policies the DHA did not consider implementing a gender sensitive migration management approach to the documentation of undocumented Zimbabwean migrants in 2009. For a long time, international migration management strategies have focused on migrant workers and business operators (Bach, 2009: 14). In so doing, government departments which are responsible for migration management reinforce the exclusion of persons who join the informal labour sector in host countries. Since eligibility for the DZP was based on proof of employment or business operations many women who did not fit into these formal categories were excluded from the DZP project. However, undocumented Zimbabwean female students who required study permits may not have had similar constraints. In future, "gender sensitive channels of regularisation need to be developed" in order to improve the opportunities for undocumented female migrants (Bach, 2009: 15).

3.3.5 Problems for asylum seekers

Some conditions of the DZP application system were disadvantageous to asylum seekers who wanted to apply for the DZP because they could only apply for DZP permits if they voluntarily forfeited their asylum claims (Amit, 2011: 24). 49 255 DZP applicants surrendered their asylum claims but there was no guarantee that all of them would obtain the DZP permits (PMG, 2011). "While some bona fide asylum seekers may have opted to apply for DZP permits because of significant barriers such as unfair asylum application adjudications and excessively long waiting periods for finalisation of asylum claims there was no guarantee that their DZP applications would be accepted" (Amit, 2011: 24). The required forfeiture of asylum claims therefore disadvantaged DZP applicants whose applications were rejected. Given that "asylum seekers and refugees who apply for temporary or permanent residence permits in terms of the Immigration Act are not required to give up their asylum or refugee status" the forfeiture of asylum status prerequisite was therefore unfair (Amit, 2011: 24). Even though such applicants could still turn back to the asylum seeking system they were left undocumented and subject to deportation (Amit, 2011: 24). Furthermore, turning back to the asylum system would mean that former asylum claimants who did not manage to acquire DZP permits would increase pressure on the asylum system

thereby undermining the DHA's efforts to relieve pressure from the asylum management system by creating the DZP project.

3.4 Conclusion

Despite drawbacks such as: low levels of preparedness, a short timeline, poor communication strategies, discriminatory requirements and administrative justice concerns; the DZP was an important step in the regulation and regularisation of undocumented Zimbabwean migrants in South Africa. However, the shortcomings associated with the project reveal that a lot more could still be done in order to improve South Africa's migration management systems especially with regards to planning and administrative efficiency. Unfortunately, there was no second chance for many undocumented Zimbabweans to make attempts to regularise their stay in South Africa through a special permit project such as the DZP. In 2014, the DHA announced that it was going to allow former DZP applicants to apply for the Zimbabwe Special Dispensation Permit (ZSP) in order to extend the duration of DZP permits (Chiumia & Van Wyk, 2014; Pokroy-Rietveld, 2014: 45; DHA, 2015a). An analysis of the ZSP process will be provided in the next chapter.

4. Chapter 4: An assessment of the Zimbabwe Special Dispensation Permit (ZSP) project.

4.1 Background information on the Zimbabwe Special Dispensation Permit (ZSP) project

In 2014, the DHA implemented the Zimbabwe Special Dispensation Permit (ZSP) project in order to document people who had previously applied for DZP permits (Chiumia & Van Wyk, 2014; DHA, 2015: 79). Former DZP applicants, including the 51 780 rejected applicants, were required to apply for the ZSP between 1 October 2014 and 31 December 2014 (Pokroy-Rietveld, 2014: 44). Permits issued under the ZSP project are valid until 31 December 2017. Unlike regular work, study and business permits, ZSP permits are not renewable in South Africa. If ZSP permit holders wish to continue staying in South Africa they have to go back to Zimbabwe and apply for regular permits. The Department of Home Affairs has not yet announced any plans to extend the ZSP or create a new special dispensation permit for undocumented Zimbabwean immigrants. In 2015, South Africa launched the Lesotho Special Permit (LSP) in order to document Lesotho nationals who had been residing in South Africa illegally before 30 September 2015 (South African Government, 2015). In 2014 the Department of Home Affairs indicated that, South Africa would soon initiate a similar permit process for Mozambicans and other Southern African Development Community (SADC) nationals (“Gigaba: SA to...”, 2014).

Unlike the DZP process which was facilitated through direct interaction with the DHA and DHA officials, the ZSP process was conducted using a new electronic permit application system. One of the DHA’s strategic goals for the 2014 financial year was to complete the development of an electronic permit system which would be facilitated by Visa Facilitation Services (VFS) Global. Permit applications have to be submitted online via the VFS website. Applicants have to book an appointment for the capture of biometrics using the VFS online application system as well. During the ZSP process VFS front end systems were utilised to capture permit applicants’ biometric photographs and finger prints which were then submitted to the South African Police Service (SAPS) for fingerprint identification and criminal record checks (“Gigaba: SA to...”, 2014). Original documents and certified photocopies had to be submitted for verification on the appointment day along with a

payment receipt indicating that an applicant had made the required R870 (for adults) or R800 (for minors) payment for the processing of ZSP permits (Chiumia & Van Wyk, 2014; Washinyira, 2015a). The DHA completed the adjudication sub-module for the ZSP since the VFS has no right to adjudicate permit applications (Chiumia & Van Wyk, 2014; DHA, 2015: 54; Washinyira, 2015a).

The ZSP process was aimed at catering for all (accepted and rejected) 294 511 DZP applicants (Portfolio Committee of Home Affairs, 2014c). In November 2015, Minister Gigaba reported that, “208 967 applications were made, 197 950 of the applicants submitted their applications and biometrics and a total of 197 790 permits were approved” (South African Government, 2015). The DHA has confirmed that, ZSP holders need to apply for normal visas from their home country following the expiry of ZSP permits and the proposed implementation of a new Immigration Act at the end of 2017 (Gigaba, 2016 [video file]). Upon the completion of the ZSP process the DHA declared that it would begin to deport undocumented Zimbabwean migrants.

4.2 The Benefits of the Zimbabwe Special Dispensation Permit (ZSP) project

4.2.1 Regularisation opportunity

One of the advantages of the ZSP project was that, the DHA allowed all persons whose applications for the DZP permit had been rejected in 2010 to apply. This therefore meant that a reasonable number of undocumented persons could make a second attempt at being documented as long as they could confirm that they had a valid DZP application reference number. Mr Jack Monedi (Chief Director of Permits, Department of Home Affairs) indicated that the 51 870 rejected DZP applicants were considered for the ZSP because some of them had been rejected owing to “no fault of their own because of the DHA’s administrative inefficiencies” (PMG, 2014b).

The major benefit of the ZSP project was that, it allayed the fears of DZP permit holders who were uncertain about what would happen upon the expiry of their permits in 2014. Had the DHA not created a successor project to the DZP, some DZP holders would have become

illegal by virtue of them overstaying in South Africa beyond 31 December 2014. In 2014 the DHA had declared that from 2014 onwards, persons who overstayed would be declared undesirable and be banned from South Africa for a number of years (First Step Immigration and Visa Services, 2014; Intergate Immigration, 2014). Given this, some DZP holders would have been at risk of being declared undesirable and some former DZP applicants would have been at risk of being deported back to Zimbabwe. In 2014 Zimbabwe was still stranded in crisis. DZP holders would therefore have been at risk of returning to a country which most of them had left in order to seek a means of survival and better life conditions.

Had DZP permit holders not been offered the opportunity to renew their permits some of them would have resorted to the asylum and refugee application systems. Had DZP permit holders not been offered the opportunity to extend their special permits some of them would have resorted to obtaining fraudulent South African documents. Simply put, not having a post 2014 migration management strategy targeted at undocumented Zimbabweans and DZP holders would have led to more problems since DZP holders could have resorted to undocumented migrants' survival strategies which had led to the establishment of a special permit project back in 2009. These strategies included: asylum claims, the acquisition of fraudulent South African documents and simply residing and working in the country illegally.

4.2.2 Administrative efficiency

The DHA began to outsource the handling of visa applications via the VFS Visa Application Centres (VACs) in June 2014 in order to curb administrative challenges. In August 2015, then Home Affairs minister, Mr Malusi Gigaba indicated that working with the VFS and moving towards a “digital paperless department” had enabled the DHA to improve in terms of efficiency, queue management and quality of services (DHA, 2015a). The outsourcing of VFS services enabled the DHA to tackle some of the challenges associated with the DZP process. The ZSP application process was not compromised by poor queue management because of the VFS appointment booking system. The use of a booking system meant that there would be no unexpected numbers of applicants queuing outside to be assisted on any particular day. Furthermore, the online application process which had to be done prior to setting a VFS appointment was way more efficient than the DZP paper application process. Applicants did not have to queue to collect an application form on one day and return on

another day to submit their application forms and supporting documents. Some satisfied applicants reported that the ZSP process was a much easier process since they did not have to wait in queues for long periods of time with no guarantee that they would be able to submit required documents (“Gigaba: SA to...”, 2014).

4.2.3 Curbing corruption

Prior to 2014 South African visa and permit application processes allowed applicants to engage directly with DHA officials. During such processes some officials received bribes or they facilitated the issuing of documents without following proper procedures. However, the outsourcing of VFS services for permit applications and submission of supporting documents enabled the DHA to curb corruption to some extent (South African Government, 2015). The VFS does not conduct permit application adjudication processes. VFS does not have the right to grant or refuse visa applications thus VFS officials cannot unfairly adjudicate applications (South African Government, 2016). Furthermore, VFS does not accept any cash payments since visa and/or permit fees are done via Electronic Funds Transfer (EFT) thereby reducing the likelihood of acts of bribery.

4.3 The shortfalls of the Zimbabwe Special Dispensation Permit process

4.3.1 A regularisation project for a select few

The ZSP project was only targeted at former DZP applicants therefore “it left many undocumented Zimbabweans in the dark with little to no means of regularising their immigration status” (Lawyers for Human Rights, 2014). Ultimately those without access to any type of permit application process would rely on the asylum system even if this was not the correct means of regularising their stay. As indicated earlier, the major benefit of the ZSP project was that it allayed the fears of DZP permit holders who were uncertain about what would happen upon the expiry of their permits in 2014. However, about 198 000 (197 790) Zimbabweans obtained ZSP permits, a number which is lower than the initial 294 511 DZP applicants and the 242 731 successful DZP applications.

4.3.2 Timeframe and planning issues

During the early stages of the ZSP process, the DHA was cautioned for its lack of a clear plan in relation to the adjudication process (Portfolio Committee of Home Affairs, 2014c). Similar to the DZP process, the ZSP project application period was three months long. The lack of a longer timeframe therefore impeded the ZSP process. Furthermore, the lack of a clear timeframe to adhere to in terms of adjudication processes increased the waiting time of applicants and almost put some of the applicants at risk of being declared undesirable upon the expiry of their DZP permits on the 31st of December in 2014. In order to curb this challenge, the DHA announced a temporary waiver on declaring ZSP applicants as undesirable. Even though all permit applications were to be made by 31 December in 2014 the deadline for completion of permit processing and outstanding tasks was pushed to 30 September 2015, nine months after the three-month application period (South African Government, 2015).

Since the DHA had stipulated that it would accept only 294 511 ZSP applications from former DZP applicants the department could have projected a timeline to cater for the stipulated number of applicants. Furthermore, the department received fewer applications than anticipated thus the adjudication and release of application outcomes could have taken a shorter period of time. Towards the 31 December deadline in 2014, the DHA had reported that it had received at least 104 315 applications out of the expected 294 511 by the beginning of November (Portfolio Committee of Home Affairs, 2014c). However, by the end of November “just over 20% of ZSP applications had been adjudicated” (“Gigaba: SA to...”, 2014).

On 21 January 2015, Bulawayo24 reported that a group called the Zimbabwe Stakeholders felt that many Zimbabweans had missed the ZSP application deadline owing to various constraints thus an extension should have been implemented to cater for those who missed the deadline (“Plans to negotiate...”, 2015). Notwithstanding cases of relocation, death or loss of interest in the ZSP, it can be said that a lot of people missed out on the deadline perhaps owing to the short application period. However, no extension was granted and those who missed the deadline were not documented. Having learned from the 2009/2010 DZP process, the DHA could have better utilised the lessons learned in terms of time constraints to

create a ZSP timeline and service targets. This would have worked better especially in the case of the ZSP whereby there was a set number of persons who were eligible to apply. However, the short time frame may not have been a major problem itself but rather, the combination of time constraints together with communication problems, financial constraints and technical issues made the ZSP process less effective than it could have been.

4.3.3 Poor public information strategies

One of the reasons why the ZSP process was impeded by the lack of a timeframe and low numbers of applicants at the beginning of the process was poor public information strategies. Public information efforts were once again mainly conducted via press articles and public media announcements which meant that those who were privileged enough to have access to these forms of media got to know about the process. Furthermore, media statements are often not detailed enough. On 5 November 2014, the Portfolio Committee of Home Affairs (2014c) recommended that “the department undertake educational engagements with stakeholders representing Zimbabwean nationals in order to encourage early applications and avoid congestion of the system”. Problems associated with public education and communication between the DHA and relevant stakeholders (undocumented migrants, employers, schools et cetera) during the DZP process once again emerged during the ZSP process. Even though the implications of communication problems associated with the ZSP were not as hefty as those associated with the DZP, it is evident that poor educational engagements and inadequate public information strategies are two problems which the DHA continued to struggle with. Public information campaigns were required, especially because the ZSP process was to be conducted by means of a new electronic permit application and appointment booking system.

4.3.4 Technical constraints

VFS front end systems were utilised to capture permit applicants’ biometric data and supporting documents while the DHA completed the adjudication sub-module for the ZSP (DHA, 2015b: 54). As discussed earlier, in terms of queue management, the new electronic application system which was utilised during the ZSP process enabled the DHA to deal with challenges associated with applicants waiting outside DHA offices in long queues for long periods of time during the DZP process.

Several applicants indicated that the online application system was slow at times and they kept getting error messages while trying to schedule for appointments or submit completed application forms (De Gruchy, 2015: 53). Given the reported technical difficulties associated with the VFS system, applicants needed to have internet access for a long period of time since there was no guarantee that one could complete their application form and successfully schedule for an appointment in one sitting. To some extent, ZSP technical difficulties replaced the problem associated with long queues during the DZP project whereby some applicants had to return to application offices on several occasions. Furthermore, access to the internet was a barrier for some potential applicants especially those who reported that they had to travel long distances to find internet cafes to apply from (Washinyira, 2015b). Furthermore, those who were not computer literate were not allowed to submit hard copy application forms and there was no VFS visa application training centre to familiarise potential applicants with the newly implemented electronic system. The utilisation of a new e-permit processing system during a short-lived programme such as the ZSP was therefore a disadvantage for those who were technically or financially disadvantaged.

4.3.5 Lack of a gender-sensitive approach

According to a Ground Up report compiled by Tariro Washinyira (2015b), some of the female informal traders who had applied for the DZP and ZSP permits claimed that they could not obtain business permits for their craft ware and vending businesses. What is more devastating is the reality that such applicants are ineligible for regular South African business or work permits thus by virtue of their ZSP applications being denied they would be forced into undocumented status. With returning home being almost the last resort to many Zimbabwean migrants living in South Africa, it is evident that the adjudication processes and conditions of the ZSP perpetuated the exclusionary practices of the DHA's migration management strategies.

The gendered dynamics of migrant flows and the economic activities of migrant groups such as female traders, hairdressers and domestic workers for example needed to be considered. During the ZSP adjudication process Minister Gigaba indicated that, "regularising Zimbabwean women who offer services in diverse sectors of the economy was a priority which the DHA would consider by ensuring that women, children and persons with disabilities are assisted to apply" (South African Government, 2015). However, these efforts

were not good enough. In response to questions regarding failed applications, Mayihlome Tshwete, a Home Affairs spokesperson indicated that, not every application would be successful. He said that, it was “difficult to satisfy everyone; people will always have a story” (Washinyira, 2015b).

4.3.6 Financial Cost

During the DZP project the DHA “waived some permit requirements including application fees” (Chiumia & Van Wyk, 2014). However, during the ZSP process applicants were required to pay R870 (for adults) or R800 (for minors) for VFS services and DHA security clearance (Chiumia & Van Wyk, 2014; Washinyira, 2015a). Furthermore, those who needed to transfer their ZSP permits to new passports had to pay R1 350 for the transfer of permits from old to new passports (“Zimbos stung by...”, 2016). Owing to the ZSP fees requirements it can be argued that some potential applicants were excluded from the process because they were unable to raise and pay the required application fees. However, Minister Gigaba indicated that the processing fee was reasonable “considering the VFS infrastructure which had been set up to allow applicants to apply within South Africa” (South African Government, 2014b). He indicated that the cost of the ZSP was in line with the “user pays” system which would relieve the DHA from having to pay for ZSP processing costs (South African Government, 2014b). The Minister also indicated that the ZSP fees were lower than the amount required for the processing of regular work, business and study permits (South African Government, 2014b).

4.4. Chapter summary

An assessment of the ZSP process in this chapter has revealed that the ZSP process was beneficial in that it allowed former DZP applicants to apply for temporary work, study and business permits without having to return to Zimbabwe. The ZSP process was more effective than the DZP process because administrative issues such as long queues and weak queue management systems were effectively eradicated because of the online VFS appointment booking system. The outsourcing of VFS services also eradicated problems associated with the bribing of DHA officials during permit application processes. Technical difficulties and lack of access to the internet could have excluded some former DZP applicants from

applying. The time frame and planning strategies of the ZSP process were not as effective as they could have been given the reality that the DHA knew the numbers of applicants it expected. More time was needed to allow applicants to familiarise themselves with the new e-permit application process and VFS online appointment booking systems as well as to allow applicants to secure the application fees required for the ZSP process.

5. Chapter 5: Conclusion and recommendations

5.1 Research objectives and outcomes

This thesis sought to answer the following two questions:

1. In what way(s) did the DZP and ZSP contribute to the management of undocumented Zimbabwean migrants in South Africa?
2. What were the benefits and challenges associated with the implementation of the DZP and ZSP regularisation projects?

The study noted that, the DZP and ZSP contributed to the management of undocumented Zimbabwean migrants in South Africa by providing them with an alternative to the following: inadequate visa/permit categories, a clogged asylum application system which was reserved for humanitarian migrants only, acquisition of fraudulent documents and illegal stays. The DZP and ZSP allowed Zimbabweans to legalise and regularise their stay without having to return to Zimbabwe. Essentially, the DZP and ZSP projects provided undocumented Zimbabwean migrants with the right to temporarily reside, work, study or conduct business in South Africa without having to follow regular permit application processes.

By rethinking its policy towards Zimbabwean migrants in 2009, the DHA sought to achieve four main objectives. The objectives and the outcomes of these objectives are outlined in the table below.

Table 3: Summary of objectives and outcomes

Objectives	Outcomes
1. To regularise Zimbabweans who were residing in South Africa illegally.	<p>Status: The achievement of this goal was not very satisfactory. Of the estimated 1,5 million undocumented Zimbabwean migrants only (19.6%) 294 511 applied for the DZP permit.</p> <p>Outcome: The DZP project ensured the documentation of at least 242 731 undocumented Zimbabwean migrants out of 294 511 applications (Portfolio Committee of Home Affairs,</p>

	2014c). The ZSP resulted in the regularisation of at least 197 790 former DZP applicants (South African Government, 2015).
2. To curb the deportation of illegal Zimbabwean migrants	<p>Status: The achievement of this goal was satisfactory.</p> <p>Outcome: According to Africa Check, in 2009 alone 280 837 illegal migrants were deported from South Africa. After the issuing of DZP permits, 201 060 were deported in 2010 and 55 825 in 2011 (Jeynes, 2016).</p>
3. To reduce pressure on the asylum seeker management system.	<p>Status: The achievement of this goal was satisfactory. However, lower asylum claims can also be attributed to the effects of the 2009 Global Political Agreement and the period of economic relief in Zimbabwe thereafter.</p> <p>Outcome: In 2009 and 2010 the number of Zimbabwean asylum claims per annum was around 150 000. This figure went down to about 50 000 in 2011 and it was lower than 25 000 at the end of 2012 (Africa Check, 2013).</p>
4. To provide amnesty to Zimbabweans who were in possession of fraudulent South African documents.	<p>Status: The achievement of this goal was satisfactory. However, only 2% of DZP applicants were persons in possession of fraudulent South African documents (DHA 2014: 2).</p> <p>Outcome: The DZP project led to the recovery of “13 251 cases of fraudulent documentation” (DHA, 2014:7; Portfolio Committee of Home Affairs, 2014c)</p>

Based on the data in the table above, it is evident that the results of the DZP and ZSP processes were not purely positive, they were mixed. The summary of the benefits and shortfalls of the DZP and ZSP process in section 5.2 attests to these findings.

5.2 Summary of benefits and shortfalls

Table 4: Summary of benefits and shortfalls

	DZP	ZSP
Benefits	<ol style="list-style-type: none"> 1. Regularisation (documentation of undocumented Zimbabwean migrants). 2. Relief on the asylum seeker application system. 3. Crackdown on fraudulent South African documents. 4. Lower deportation rates. 	<ol style="list-style-type: none"> 1. Regularisation (extension of DZP permits). 2. Avoiding new pressure(s) on the asylum seeker application system 3. Administrative efficiency: Improved queue and application management systems.
Shortfalls	<ol style="list-style-type: none"> 1. Time frame and planning constraints. 2. Poor public information sharing strategies. 3. Administrative inconsistencies. 4. Absence of a gender sensitive approach. 5. Little consideration for unemployed undocumented migrants. 	<ol style="list-style-type: none"> 1. Time frame and planning constraints. 2. Poor public information sharing strategies. 3. Technical constraints. 4. Absence of a gender sensitive approach. 5. No consideration of new applicants. 6. Financial cost.

5.2.1 Benefits

The major benefits of the DZP and ZSP processes were: the documentation of undocumented Zimbabwean migrants, relief of pressure on the asylum seeker management system and the

provision of an alternative permit system to manage unprecedented migration flows. Both processes also allowed the South African government to save up on deportation costs on a category of migrants who often resurfaced in the country a few weeks or months after being deported. As discussed in chapter four, administrative efficiency improved during the ZSP process because of the VFS online application and appointment booking system. Long queues and lengthy overnight stays at DHA offices were not experienced by any of the ZSP applicants because of the VFS facilitated application system. However, adjudication was not as fast as expected. Overall, the DZP and ZSP permit processes allowed a significant number of formerly undocumented Zimbabweans to live, work and study in South Africa without having to return home to apply for permits while the South African government hoped for greater stability and economic recovery in Zimbabwe.

5.2.2 Shortfalls & Recommendations

Short time frames, poor communication and queue management strategies

According to Letsiri (2012: 60) “managing illegal immigration into South Africa is fraught with many challenges, most of which centre around implementation and monitoring”. Given this, the DHA needed to ensure that certain essential guidelines were put in place and followed by means of setting clear time lines, carrying out public information drives in communities, ensuring timely adjudication. Insufficient time frames, lengthy adjudication periods and poor public information systems were major shortfalls during both documentation processes. At least, queue management was improved by the implementation of an electronic permit application and appointment booking system for the ZSP process (“Gigaba: SA to...”, 2014; South African Government, 2015).

Administrative inconsistencies

Administrative inconsistencies which were experienced during the DZP process included: ad hoc changes to permit requirements, different methods of communicating with applicants and the absence of uniform application processing methods across DZP application centres. These problems “gave significant rise to administrative justice concerns since there was no guarantee that the DZP project was administratively fair across the regional offices which were responsible for implementing the project” (Amit, 2011: 19; Amit, 2011: 23). These

administrative inconsistencies were eradicated by means of outsourcing VFS services for electronic applications, appointment booking and document submission during the ZSP process. “120 dedicated DHA staff were trained and prepared to deal with ZSP adjudications (South African Government, 2014b)”. The DHA was only responsible for the adjudication process and sending application outcomes back to VFS centres for collection. No ad hoc changes were made during the ZSP process.

Technical constraints

Despite the benefits that come with computerised systems, the ZSP process was not fault-free. Technical difficulties made it difficult for many applicants to apply and make appointment bookings at one go therefore “internet access was needed for a long period of time” (De Gruchy, 2015: 53). Furthermore “vast numbers of people in South Africa, including foreign nationals, do not have regular access to internet facilities” (Lawyers for Human Rights, 2014). The DHA could have put more effort into ensuring access to internet facilities and online application assistance desks at DHA or VFS offices instead of encouraging applicants to call customer service lines which were often unhelpful. However, Minister Gigaba indicated that the DHA was confident that the electronic permit application system would work because “internet access is sufficiently high in South Africa” (South African Government, 2014b).

No new applicants considered during the ZSP project

The reality that no new applicants were considered for the ZSP process means that South Africa was not willing to consider documenting anymore undocumented Zimbabwean migrants after 2010. Despite the realisation that 81% of DZP applicants were persons who were purely illegal, not having resorted to claiming asylum or acquiring fraudulent documents, the DHA could have made a second attempt at documenting former DZP applicants and other categories of undocumented Zimbabwean migrants in 2014.

Exclusionary requirements

An assessment of the DZP in Chapter 3 and the assessment of the ZSP project in Chapter 4 revealed that both processes were not based on any kind of gender based considerations. It

can be argued that the permit processes were open to undocumented Zimbabwean migrants regardless of their gender or occupation. However, it is a reality that when adjudicating permit applications, ‘gainful’ employment or business ownership are criteria that are highly considered. There are many Zimbabwean female migrants who are involved in domestic work and informal trading and they could have been excluded because their economic activities were not necessarily viewed as ‘gainful’ by the DHA. There are craftwork entrepreneurs and domestic workers who felt excluded because of the nature of their economic engagements (Keepile, 2010; Washinyira, 2015b). In response to questions regarding failed applications, Home Affairs spokesperson, Mayihlome Tshwete, indicated that, not every application would be successful and it was “difficult to satisfy everyone because people will always have a story” (Washinyira, 2015b). Perhaps this gendered type of exclusion was an unintended consequence. However, the DHA was aware of these issues as indicated by Minister Gigaba in his promise that, during the ZSP and LSP processes “regularising Zimbabwean and Lesotho women who offer services in diverse sectors of the economy would be a priority which the DHA would consider by ensuring that they are assisted to apply” (South African Government, 2015). The DHA could definitely have done more to fulfil that promise.

Financial cost of ZSP permits

In terms of cost, the DZP did not require applicants to pay application fees. However, a service fee of R870 (for adults) or R800 (for minors) was required (Chiumia & Van Wyk, 2014; Washinyira, 2015a). Even though the DHA had a target category for the ZSP application process no efforts were made to conduct a research study or process of inquiry regarding how much the average DZP applicant was able to pay in the event that the ZSP project was introduced.

Resorting to creating an early notification system would have been a better strategy to address the cost issue and allow potential applicants to prepare themselves to pay for the ZSP process. However, early notification would still not guarantee money availability. Charging permit application fees is not unlawful but it should be done based on the recognition of the financial difficulties faced by undocumented migrants in order to ensure that the fees for special permits are kept at a minimum. This is especially true considering that the DZP project had catered for undocumented migrants from different gender, class and professional

groups. For example, a business owner may not have had any difficulty raising the permit application fee at such short notice whilst a hawker or farm worker may not have been able to raise enough money for the application fees before the application deadline.

5.3 South Africa's intention to maintain restrictive migration management policies

More than many issues related to migration management policies, irregular or illegal migration is a direct challenge to the ability of policymakers to control and regulate their territory and migration flows (Bertossi, 2009: 24). Consequently, the management of unprecedented migrant flows such as the influx of Zimbabwean migrants in the early 2000s becomes a highly politicized issue since policies to address irregular migration are often framed according to contextual realities (public perceptions and attitudes regarding migration in this case). Given the reality that South Africa is not a migrant friendly context, the DHA's intention not to renew the ZSP and the condition that former DZP and ZSP holders will not be granted permanent residence can be labelled as attempts for the South African government not to appear to be lenient towards migrants. It is definitely not a secret that South Africa's migration management strategies are increasingly restrictive (De Gruchy, 2015: 58).

It has already been established that the South African government was forced to regularise undocumented Zimbabwean migrants because of factors such as pressure on the asylum seeker system and an increase in the numbers of undocumented Zimbabwean nationals and holders of fraudulent South African documents. South Africa's national and economic interests as well as South Africa's geographical, historical and political ties with Zimbabwe play an important role in determining the policy decisions taken towards Zimbabwe's crisis and Zimbabwean migrants. Since South Africa's economy is boosted by exports to Zimbabwe and the use of Zimbabwean roads for transportation of South African exports to other countries the South African government cannot close off its borders to Zimbabwean migrants. Furthermore, the shared history of anti-colonial sentiments and anti-western political strategies may continue to force South Africa not to enforce harsh conditions towards Zimbabwe despite President Mugabe's government's governance and economic policy failures.

To dismiss flows of Zimbabwean migrants and attempt to push them out by means of arrests and deportations meant ignoring the factors which pushed Zimbabweans to become undocumented migrants thus some form of amnesty or documentation drive was required. One of the major challenges which South Africa has failed to address is the reality that the migration management challenges faced by South Africa owing to Zimbabwe's political and economic crises are linked to South Africa's foreign policy towards Zimbabwe (Hammerstad, 2011: 1). The exercise of quiet diplomacy towards the Zimbabwean political and economic crises and the maintenance of silence regarding the reasons why there was an influx of Zimbabweans made things worse.

At a broader policy level South Africa maintained a *laissez-faire* approach towards the influx of Zimbabwean migrants post-2000, only reacting when the asylum seeker system was in trouble and following episodes of xenophobic attacks in 2008. Arrests, deportations and regular entry regulations were maintained despite evidence of irregular unprecedented migration flows from Zimbabwe. Despite the documentation attempts introduced after the 2008 episode of xenophobic violence, South Africa has largely exercised benign neglect of the problems associated with the influx of Zimbabwean migrants. Having quietly accepted the presence of between one and three million Zimbabweans for over five years since the year 2000 the South African government failed dismally to pay attention to migration flow issues between 2000 and 2009 (Hammerstad, 2011: 2).

5.4 Why the DZP and ZSP were the best option

According to Polzer (2009: 2) the regularisation of Zimbabwean migrants post 2008 was a positive shift towards a rational and realistic approach to the scale and nature of movement which resulted from Zimbabwe's political and economic crises. It was in South Africa's best interest(s) to respond to the influx of illegal Zimbabwean migrants by implementing policy solutions which tackled undocumented migration. According to Polzer (2009: 2), the only policy options regarding the influx of Zimbabwean migrants were to "either allow an increase in the numbers of undocumented migrants by taking no direct action towards Zimbabwean migrants or to regulate and legalise migrants as a way of improving South Africa's migration management system".

Based on the assumption that the special dispensation permits were unlikely to increase the overall volumes of migration it is therefore safe to conclude that the DZP and ZSP were the best way to tackle the problems associated with the exodus of Zimbabwean migrants post 2000. Since Zimbabweans were and continue to be classified as the largest migrant population in South Africa it is important to find ways of making it easier for them enter South Africa and return home with minimal restrictions. Analysts argue that harsh immigration laws promote the illegal stay of foreign nationals in South Africa because the costs associated with returning or attempting to return home are deemed high. Given this, undocumented migrants often resort to staying in the host country since “return without unknown lived alternatives is too risky” (Polzer, 2009: 3).

5.5 Future outlook: What happens after 2017?

Unfortunately for South Africa, Zimbabwe’s situation has not improved to an extent whereby the economic climate can be deemed as safe to return to. The Zimbabwean economy is still in serious trouble owing to an enduring fiscal deficit, liquidity constraints, international debt and an unemployment rate above 80% (International Crisis Group, 2016: 2). Anti-government protests have spiked since the beginning of 2016 and based on previous episodes of electoral violence the upcoming 2018 presidential elections can be expected to be unfair and marred with political violence. It is therefore unlikely that when ZSP permits expire at the end of 2017 many will be willing to return home to apply for regular permits. The possibility of a second mass exodus of Zimbabweans post 2000 cannot be ruled out in the near future. Should former DZP and ZSP holders return home willingly they may be forced to flee back to South Africa along with a new stream of undocumented Zimbabweans following the 2018 elections. Furthermore, many who previously qualified for the special dispensation permits may not necessarily qualify for regular work and business permits which the DHA has encouraged them to resort to (“Zimbos stung by...”, 2016). This is so because South Africa has an increasingly rigid immigration policy which focuses mainly on the economic benefits which South Africa stands to gain from migrants with special skills which are in short supply in the country.

Since the 2009 Global Political Agreement (GPA), South Africa, SADC and members of the African Union (AU) have not focused on the political and economic status of Zimbabwe. In the past, quiet diplomacy and ignoring the immigration effects of Zimbabwe's economic crisis have had negative consequences for South Africa. Regional and continental responses to such migration flows are needed in order to ensure that history does not repeat itself in the near future and to protect major receiving economies from bearing the brunt of the burden of unexpected migrant flows. Even though multi-country commitments may be a viable option it is important to acknowledge the political constraints associated with such an approach.

President Robert Mugabe once publicly threatened to pull Zimbabwe out of the Southern African Development Community (SADC). He emphasised that Zimbabwe was in SADC voluntarily and if SADC "decided to do stupid things Zimbabwe could pull out" (Mlambo, 2016: 30). Recognising Zimbabwe's sovereignty and right to solve its own political and socio-economic challenges it is difficult to say how best such an approach (a regional approach) can be implemented without threatening Zimbabwe's sovereignty. However, interventions are required in order to curb the political and socio-economic factors which promote large flows of migrants and create the problem of undocumented migration for receiving countries.

It is also a reality that every country is grappling with its own problems thus focusing their political energies on Zimbabwe should be the least of their concerns. However, when the influx of migrants becomes a problem it may be too late to start attempting to curb the problems resulting from quiet diplomacy. South Africa and her neighbours should consider this as we head towards the 2017 ZSP permits' expiry date and the 2018 Zimbabwean presidential elections amidst increasing levels of poverty, unemployment and anti-government demonstrations in Zimbabwe.

Given that commitment is also required on the part of the Zimbabwean government it is also important for the Zimbabwean government and Zimbabwe's Ministry of Home Affairs to ensure that they are fully committed to ensuring the issuing of required documentation timeously. When entering into bilateral agreements such as the partnership between South Africa's Department of Home Affairs and the Zimbabwean Ministry of Home Affairs which

led to the decisions to implement the DZP and ZSP projects, the Zimbabwean government should prioritise the interests of the survival migrants fleeing from harsh economic and political hardships. The Zimbabwean government could have done more to negotiate for the extension of permit application periods after realising that providing potential DZP applicants with necessary documents such as passports was a daunting task. Hopefully the Zimbabwean government will avoid entering into special dispensation permit bilateral agreements in the near future by fixing the economic and political problems which push Zimbabweans to migrate.

Given that the DHA has expressed commitment to implementing projects similar to the DZP, ZSP and LSP to members of other SADC countries lessons learned from the DZP and ZSP projects need to be taken into consideration. This is especially true when it comes to processing special dispensation permits using costly outsourced technical services which though effective in terms of eradicating queue management, corruption and other administrative constraints create barriers to documentation. If application processes are a constraint, problems such as the acquisition of fraudulent documentation, illegal stays and the clogging of the asylum seeker management system will persist.

5.6 Recommendations

5.6.1 Emulate and extend is the way to go

South Africa's response to the exodus of Zimbabwean migrants in the early 2000s serves as an opportunity to forge long term migration management instruments between South Africa and Zimbabwe as well as with other countries within the southern African region (Polzer, 2009: 3). This is so because, migration is on the rise, it is unlikely to stop and the socio-economic and political conditions which push people to migrate within the region persist. The nature of mixed-migration flows to South Africa, especially the migration of Zimbabweans has been defined as survival migration which means that it is expected that the worsening of conditions in Zimbabwe would push more Zimbabweans out of their country. Unfortunately for South Africa, South Africa remains the nearest, most porous and developed country to migrate to for these survival migrants. Should processes such as the DZP and ZSP not be

emulated or extended the problem of illegal migrants will continue to trouble the South African government.

5.6.2 Documentation improves record keeping

Given that the DHA does not have any reliable data regarding the numbers and demographic profiles of undocumented migrants in South Africa, documentation drives can enable the government to have a better idea of how many migrants are currently residing in South Africa. According to Polzer (2009: 3), special permit processes “enable the state to measure the volumes and impact of migration more effectively.” According to the African Centre for Migration and Society (ACMS), research findings have revealed that, “the majority of undocumented migrants were relatively unskilled labourers who were not eligible for regular work, study or business permit categories thus entering the asylum system remained the only regularisation option open to most undocumented migrants after the DZP project was initiated” (Amit, 2011: 7).

It can be argued that, since the DZP and ZSP were mostly available to a select few, that is, persons who were employed, studying or running businesses in South Africa prior to 2009, there is a significant population that was left out during the special dispensation processes. The DZP and ZSP permit processes have been commended for allowing undocumented Zimbabwean nationals the legal right to live and work in South Africa but only a few out of the projected millions of undocumented Zimbabweans actually benefited from this advantage. However, benefits such as, enabling migrants to “productively contribute to South Africa’s economy and to contribute to Zimbabwe’s economy by means of remittances” cannot be denied (Polzer, 2009: 4).

5.6.3 Lack of alternative options

In 2015 Minister in the Presidency, Jeff Radebe admitted that South Africa’s migration policy is “not equipped to deal with the inward migration of foreign nationals” (Davis, 2015). “The lack of adequate options for legal entry and residence in South Africa” is a challenge which persists (Polzer, 2009: 4). Even though the South African government is aware of its economic and geopolitical attractiveness to humanitarian and economic migrants it reserves

the right to jealously guard access to permanent residence and citizenship. However, the implications of such an approach are “an exclusive and increasingly restrictionist immigration policy” and stringent migration management strategies (Peberdy, 2001: 15; De Gruchy, 2015: 52).

Hammerstad (2011: 1) contends that, “for the sake of South Africa’s reputation as a protector of human rights, the credibility of its asylum system must be restored”. In order to achieve such credibility, the DHA would therefore have to ensure that it clears backlogs of asylum applications, conducts application adjudications timeously and ensure that persons classified as economic migrants do not clog the asylum application system. The DZP and ZSP processes enabled the DHA to reduce pressure on the asylum system and they provided an alternative to asylum seeking for Zimbabwean nationals who migrated to South Africa in the early 2000s without any work, study or business permits. Work permits are not easy to obtain, especially for persons who do not fall under special skills permit categories. Zimbabwean visitor’s permits do not last for periods beyond 90 days per year and one is not allowed to work or conduct any business operations using a visitor’s permit. Since the economic and political conditions which led to the exodus of Zimbabwean migrants since the early 2000s persist projects such as the DZP and ZSP remain as feasible alternatives if the South African government wishes to strictly safeguard access to permanent residence and citizenship.

Mandisi Majavu (2011) contends that instead of penalizing migrants for factors beyond their control, “the South African government ought to consider extending the concept of the DZP project to other African foreign nationals”, especially those coming from the Southern African Development Community (SADC) region. Majavu (2011) argues that it is worth noting that many people in the southern African region live in poverty and South Africa is one of the places, if not the only place where economic opportunities are closest and available. Even though South Africa has its own socio-economic problems the reality is that South Africa is an economic powerhouse in the region thus it will continue to attract both documented and undocumented migrants. Furthermore, many migrants who are in South Africa come from countries which they cannot easily return to owing to various constraints thus creating South African based documentation centres for them is essential (De Gruchy, 2015: 52).

5.7 Risks: What to consider when formulating migration management policy goals in South Africa

5.7.1 Xenophobic attacks and public outrage

Xenophobic sentiments are commonly associated with grievances regarding how foreign nationals are frequently perceived as a threat to the wages and working conditions of locals (Garcés-Mascreñas, 2013: 15). Economic explanations of xenophobia in South Africa are based on the reality that, “poor (mostly black) South African nationals see foreign Africans as competing with them for jobs, housing, and other services and resources to which they themselves feel entitled to” (Dodson, 2010: 5). There is also a popular perception that there are more undocumented than documented Zimbabwean immigrants residing in South Africa (Hungwe, 2012: 133). This gives rise to xenophobic attacks which are aimed at deterring illegal migrants from settling in South Africa.

Research has revealed that many “South Africans do not like African foreign nationals regardless of which country they come from, and that they also prefer highly restrictive immigration policies” (Hungwe, 2012: 133). In the case of the DZP project, a report titled *‘Enquiry concerning South Africa resident’s perceptions of deportation and the Zimbabwe Documentation Project’* revealed that, 47% of respondents “confirmed that they viewed the DZP project as generally negative” (“Bodies lobby SA...”, 2011; Hanekom, 2011a). According to PASSOP this confirmed negative and xenophobic opinions which are held by most South Africans regarding foreign nationals (Hanekom, 2011a). If such attitudes do not change, public reactions to special permit projects or immigration amnesty programs may be negative and result in widespread xenophobic attacks.

5.7.2 The (un)likelihood of return migration

It is expected that the longer migrants stay in a host country, the more likely they are to become integrated and unlikely to return to their home country (Makina, 2012: 376). Should the situation in Zimbabwe improve in the near future it is not guaranteed that many Zimbabweans (both documented and undocumented) currently residing in South Africa will

be willing to go home as soon as possible. Polzer (2009: 3) indicated that, “even in the best case scenario for Zimbabwe’s stabilisation and reconstruction, the migration of Zimbabweans to South Africa would continue in the foreseeable future”. “The decision to return home should be viewed against the determinants of migration” (Makina, 2012: 367). According to research findings presented by Daniel Makina (2012: 369), 66% of Zimbabwean migrants who were interviewed for a study of the determinants of return migration intentions indicated that “they would like to return home in the future if there is political and economic stability in Zimbabwe”. If not, the DHA may once again have to live with the reality that former DZP and ZSP holders together with undocumented Zimbabwean migrants will still prefer to continue staying in South Africa.

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